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117–151

CERRO DE LA OLLA WILDERNESS DESIGNATION

SEPTEMBER 21, 2022.—Ordered to be printed

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

R E P O R T

[To accompany S. 177]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 177), to amend the John D. Dingell, Jr. Conservation, Management, and Recreation Act to establish the Cerro de la Olla Wilderness in the Rio Grande del Norte National Monument and to modify the boundary of the Rio Grande del Norte National Monument, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

AMENDMENTS

The amendments are as follows:

1. On page 2, lines 21 and 22, strike "January 28, 2021" and insert "April 25, 2022".
2. On page 3, line 4, strike "13,103" and insert "13,098".
3. On page 3, between lines 7 and 8, insert the following:

(B) in paragraph (4), in the matter preceding subparagraph (A), by striking "this Act" and inserting "this Act (including a reserve common grazing allotment)";

4. On page 3, line 8, strike "(B)" and insert "(C)".
5. On page 3, line 15, strike "(C)" and insert "(D)".
6. On page 5, line 7, strike "January 28, 2021" and insert "April 25, 2022".

PURPOSE

The purpose of S. 177 is to establish the Cerro de la Olla Wilderness in the Rio Grande del Norte National Monument in New Mexico and to modify the boundary of the Monument.

BACKGROUND AND NEED

The Rio Grande del Norte National Monument lies north of Taos on the border with Colorado and straddles New Mexico's Taos and Rio Arriba Counties. The 252,000-acre national monument was established by President Obama in 2013 using his authority under the Antiquities Act. Proclamation 8946, 78 Fed. Reg. 18783 (Mar. 28, 2013). In 2019, Congress designated two areas within the monument totaling just over 21,000 acres as wilderness. Public Law 116–9, § 1202, 133 Stat. 651.

Cerro de la Olla is a towering shield volcano at an elevation of 9,475 feet. The upper elevations of the volcano offer opportunities for solitude and look out over the Sangre de Cristo and San Juan Mountains, and the Rio Grande Gorge.

The wilderness areas provide numerous recreational opportunities, including whitewater rafting, fishing, hiking, and camping. The areas also support grazing and the traditional collection of firewood and pinon nuts. Wilderness designation provides these lands with permanent protection while continuing to allow for recreational opportunities and certain traditional uses.

LEGISLATIVE HISTORY

S. 177 was introduced on February 2, 2021, by Senators Heinrich and Luján. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on June 16, 2021. Senator Heinrich introduced a similar bill in the 116th Congress, S. 3241. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 3241 on September 16, 2020, but no further action was taken on the bill. Two companion bills were introduced in the House in the 117th Congress (H.R. 2522) and the 116th Congress (H.R. 8564).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 3, 2022, by a majority voice vote of a quorum present, recommends that the Senate pass S. 177, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 177, the Committee adopted several clarifying amendments updating the wilderness acreage, map references, and other clarifying and conforming amendments.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides the short title of the bill, the "Cerro de la Olla Wilderness Establishment Act."

Sec. 2. Designation of Cerro de la Olla Wilderness

Section 2(a) amends section 1202 of Public Law 116–9, the John D. Dingell, Jr. Conservation, Management, and Recreation Act, by designating approximately 13,098 acres of land administered by the Bureau of Land Management within the Rio Grande del Norte National Monument in New Mexico as the Cerro de la Olla Wilderness.

The subsection also states that the Secretary may authorize the maintenance of structures or facilities for wildlife water development projects in the wilderness area if the structures or facilities enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations and the visual impacts can be reasonably minimized. Finally, the Secretary is authorized to enter into a cooperative agreement with the state of New Mexico to carry out wildlife management activities in the wilderness area.

Subsection (b) makes a clerical amendment to the table of contents reference for section 1202.

Sec. 3. Rio Grande Del Norte National Monument boundary modification

Section 3 modifies the boundary of the Rio Grande del Norte National Monument to include approximately 5,000 acres of additional lands within the boundary of the monument.

COST AND BUDGETARY CONSIDERATIONS

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

[Abstract], **Cerro de la Olla Wilderness Establishment Act**
As [Manager] **on May 3, 2022**

By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated

Statutory pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and $500,000.

S. 177 would designate roughly 13,100 acres of federal land in the Rio Grande del Norte National Monument in New Mexico as wilderness and would modify the boundary of the national monument.

Based on the costs of similar tasks, CBO estimates that the cost for the Bureau of Land Management (BLM) to implement S. 177 would be insignificant; any spending would be subject to the availability of appropriated funds.

Designating land as wilderness would reduce its availability for income-generating activities; income from such activities is classified in the budget as offsetting receipts, or reductions in direct spending. Some of those receipts are available for BLM to spend without further appropriation. Using information from the agency, CBO estimates that any receipts forgone under S. 177 would be insignificant over the 2022–2032 period. Because BLM also would forgo any associated spending, the net effect on direct spending would be negligible.

The CBO staff contact for this estimate is Lilia Ledezma. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of 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. 177. 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. 177, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 177, 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 Department of the Interior at the June 16, 2021, subcommittee hearing on S. 177 follows:

STATEMENT OF NADA WOLFF CULVER, DEPUTY DIRECTOR, POLICY & PROGRAMS, BUREAU OF LAND MANAGEMENT

Thank you for the opportunity to testify on S. 177, the Cerro de la Olla Wilderness Establishment Act. The bill designates approximately 13,000 acres within the Río Grande del Norte National Monument in New Mexico as the Cerro de la Olla Wilderness.

On January 27, 2021, President Biden signed Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, which launched a government-wide effort to confront climate change and restore balance on public lands and waters. The President's directive recognizes the opportunities America's lands and waters offer and outlines a historic and ambitious challenge to the nation to conserve at least 30 percent of our lands and waters by 2030. The President's America the Beautiful initiative specifically emphasizes the value of conserving the nation's natural resources, recognizing multiple uses of our lands and waters, including its working lands, can be consistent with the

long-term health and sustainability of natural systems. S. 177 aligns with the Administration's conservation goals and the Bureau of Land Management (BLM) supports the bill.

Background

The Río Grande del Norte National Monument lies north of Taos on the border with Colorado, and straddles New Mexico's Taos and Rio Arriba Counties. The area is comprised of rugged, wide open plains at an average elevation of 7,000 feet, dotted by volcanic cones and cut by steep canyons with rivers tucked away in their depths. The Cerro de la Olla volcanic cone provides a visible reminder of the area's volatile past, while wildlife species—including deer, elk, and pronghorn antelope—bring both hunters and wildlife watchers to the area. These lands benefit the public by providing recreational opportunities, such as whitewater rafting, fishing, hiking, and camping. Further, the land supports grazing and traditional collection of firewood and piñon nuts.

S. 177

S. 177 would designate approximately 13,000 acres of land administered by the BLM as the Cerro de la Olla Wilderness within the Rio Grande del Norte National Monument. Wilderness designation would afford these lands the highest level of protection while continuing to provide recreational opportunities as well as allow for certain traditional uses. The BLM appreciates the efforts of the sponsor to support community access for firewood collection and grazing by excluding certain lands from the proposed wilderness designation. The BLM would like to continue working with the sponsor to ensure the local community can responsibly continue traditional uses of these public lands.

Additionally, the proposed designation overlaps a significant portion of the reserve common grazing allotment the BLM has set aside for the temporary use of permittees displaced due to wildfire, vegetation treatment, drought and other issues. Grazing can be a compatible use within wilderness and there is a history of legislation incorporating guidance for accommodating grazing within wilderness designations, such as the Congressional Grazing Guidelines (outlined in H. Rept. 96–1126 and H. Rept. 101–405). The BLM recommends the addition of language addressing the unique circumstances of the reserve common grazing allotment.

The Administration supports collaborative conservation in all land use planning efforts, including monuments, and BLM looks forward to working with the local community and stakeholders as the Committee considers the bill's boundary modifications to the Monument.

Conclusion

Wilderness is a key component of conservation. The Biden Administration recognizes wilderness is a fundamentally important part of the American landscape, not only for practical and scientific values, but also for the beauty, majesty, and solitude it provides. For example, wilderness generates significant economic benefits to local communities by providing recreational opportunities while simultaneously supporting ecosystem health and biodiversity. The BLM supports S. 177 and we would welcome the opportunity to work with the sponsor and the Subcommittee on minor modifications.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 177, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 116–9

116th Congress

AN ACT To provide for the management of the natural resources of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.— This Act may be cited as the "John D. Dingell, Jr. Conservation, Management, and Recreation Act".

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

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TITLE I—PUBLIC LANDS AND FORESTS

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Subtitle C—Wilderness Designations and Withdrawals

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PART I—GENERAL PROVISIONS

Sec. 1201. Organ Mountains-Desert Peaks conservation.

[Sec. 1202. Cerro del Yuta and Río San Antonio Wilderness Areas.] *Sec. 1202. Río Grande del Norte National Monument Wilderness Areas.*

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TITLE I—PUBLIC LANDS AND FORESTS

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Subtitle C—Wilderness Designations and Withdrawals

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PART I—GENERAL PROVISIONS

SEC. 1202. [CERRO DEL YUTA AND RÍO SAN ANTONIO] ***RÍO GRANDE DEL NORTE NATIONAL MONUMENT*** **WILDERNESS AREAS.**

(a) DEFINITIONS.—In this section:

[(1) MAP.—The term "map" means the map entitled "Río Grande del Norte National Monument Proposed Wilderness Areas" and dated July 28, 2015.]

(1) MAP.—The term "map" means—

(A) for purposes of subparagraphs (A) and (B) of subsection (b)(1), the map entitled "Rio Grande del Norte National Monument Proposed Wilderness Areas" and dated July 28, 2015; and

(B) for purposes of subsection (b)(1)(C), the map entitled "Proposed Cerro de la Olla Wilderness and Río Grande del Norte National Monument Boundary" and dated April 25, 2022.

(2) WILDERNESS AREA.—The term "wilderness area" means a wilderness area designated by subsection (b)(1).

(b) DESIGNATION OF CERRO DEL YUTA AND RIO SAN ANTONIO WILDERNESS AREAS.—

(1) 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:

(A) 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".

(B) RÍO SAN ANTONIO WILDERNESS.—Certain land administered by the Bureau of Land Management in Río Arriba County, New Mexico, comprising approximately 8,120 acres, as generally depicted on the map, which shall be known as the "Río San Antonio Wilderness".

(C) CERRO DE LA OLLA WILDERNESS.—Certain Federal land administered by the Bureau of Land Management in Taos County, New Mexico, comprising of approximately 13,098 acres as generally depicted on the map, which shall be known as the "Cerro de la Olla Wilderness".

(2) 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 section, except that with respect to the wilderness areas designated by this section—

(A) 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

(B) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(3) 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—

(A) become part of the wilderness area in which the land is located; and

(B) be managed in accordance with—

(i) the Wilderness Act (16 U.S.C. 1131 et seq.);
(ii) this section; and
(iii) any other applicable laws.

(4) GRAZING.—Grazing of livestock in the wilderness areas, where established before the date of enactment of [this Act] *this Act (including a reserve common grazing allotment)*, shall be administered in accordance with—

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

(B) 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).

(5) BUFFER ZONES.—

(A) IN GENERAL.—Nothing in this section creates a protective perimeter or buffer zone around the wilderness areas.

(B) 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.

(6) 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—

(A) has been adequately studied for wilderness designation;

(B) 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

(C) shall be managed in accordance with this section.

(7) MAPS AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the [map and] *maps and* legal descriptions of the wilderness areas with—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) FORCE OF LAW.—The [map and] *maps and* legal descriptions filed under subparagraph (A) shall have the same force and effect as if included in this section, except that the Secretary may correct errors in [the legal description and map] *the maps or legal descriptions.*

(C) PUBLIC AVAILABILITY.—The [map and] maps and legal descriptions filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(8) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The wilderness areas shall be administered as components of the National Landscape Conservation System.

(9) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction of the State of New Mexico with respect to fish and wildlife located on public land in the State.

(10) WITHDRAWALS.—Subject to valid existing rights, any Federal land within the wilderness areas designated by paragraph (1), 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—

(A) entry, appropriation, or disposal under the public land laws;

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

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(11) TREATY RIGHTS.—Nothing in this section enlarges, diminishes, or otherwise modifies any treaty rights.

(12) WILDLIFE WATER DEVELOPMENT PROJECTS IN CERRO DE LA OLLA WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B) and in accordance with section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), the Secretary may authorize the maintenance of any structure or facility in existence on the date of enactment of this paragraph for wildlife water development projects (including guzzlers) in the Cerro de la Olla Wilderness if, as determined by the Secretary—

(i) the structure or facility would enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(ii) the visual impacts of the structure or facility on the Cerro de la Olla Wilderness can reasonably be minimized.

(B) COOPERATIVE AGREEMENT.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall enter into a cooperative agreement with the State of New Mexico that specifies, subject to section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), the terms and conditions under which wildlife management activities in the Cerro de la Olla Wilderness may be carried out.

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