

108TH CONGRESS
1ST SESSION

S. 1649

To designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2003

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

A BILL

To designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, 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 the “Ojito Wilderness Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) the Ojito Wilderness Study Area, located in
8 Sandoval County, New Mexico, contains dramatic
9 landforms and rock structures, multicolored bad-

1 lands, expansive plateaus and mesa tops, and a high
2 density of cultural and archaeological sites, paleon-
3 tological resources, and diverse plant and animal
4 species;

5 (2) the Bureau of Land Management evaluated
6 the Ojito area and found that the area has sufficient
7 land area and natural characteristics to qualify for
8 full wilderness status and protection;

9 (3) in 1992, President George H.W. Bush con-
10 curred with the recommendation of Secretary of the
11 Interior Manuel Lujan, Jr., that Congress designate
12 the Ojito Wilderness based on the high quality wil-
13 derness values, close proximity to the Albuquerque
14 and Santa Fe population centers, cultural and pale-
15 ontological special features, and the lack of resource
16 conflicts in the area;

17 (4) the Pueblo of Zia has worked in cooperation
18 with other interested parties to reach an agreement
19 under which the Pueblo would acquire public land
20 adjacent to the Zia Reservation and the Ojito Wil-
21 derness Study Area that would—

22 (A) enhance the protections for the land in
23 the Ojito area; and

24 (B) ensure that the land will remain open
25 to the public for recreational, scenic, scientific,

1 educational, paleontological, and conservation
2 uses; and

3 (5) the transfer of certain parcels of public land
4 to the Pueblo of Zia and the designation of the Ojito
5 Wilderness as a component of the National Wilder-
6 ness Preservation System—

7 (A) is in the best interest of people of the
8 State of New Mexico and people from other
9 States;

10 (B) would preserve and maintain the Ojito
11 as an enduring resource of wilderness; and

12 (C) would provide for the management and
13 promotion of the wilderness character and var-
14 ious resources of the Ojito area for wildlife
15 habitat protection, scenic and historic preserva-
16 tion, scientific research and education, primitive
17 recreation, solitude, and inspiration for present
18 and future generations of the people of the
19 United States.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) PUEBLO.—The term “Pueblo” means the
23 Pueblo of Zia.

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

1 (3) STATE.—The term “State” means the State
2 of New Mexico.

3 (4) TRUST AREA MAP.—The term “Trust Area
4 map” means the map entitled “Lands Transferred
5 to Pueblo of Zia—Proposed”, numbered ____, and
6 dated _____.

7 (5) WILDERNESS.—The term “Wilderness”
8 means the Ojito Wilderness designated under section
9 4.

10 (6) WILDERNESS MAP.—The term “Wilderness
11 map” means the map entitled “Ojito Wilderness
12 Study Area: Ojito Proposal”, numbered NM-010-
13 024, and dated April 1990.

14 **SEC. 4. DESIGNATION OF THE OJITO WILDERNESS.**

15 (a) IN GENERAL.—In furtherance of the purposes of
16 the Wilderness Act (16 U.S.C. 1131 et seq.), there is here-
17 by designated as wilderness, and, therefore, as components
18 of the National Wilderness Preservation System, certain
19 land in the Albuquerque District-Bureau of Land Manage-
20 ment, New Mexico, which comprise approximately 10,903
21 acres, as generally depicted on the Wilderness map, and
22 which shall be known as the “Ojito Wilderness”.

23 (b) MAP AND LEGAL DESCRIPTION.—The Wilderness
24 map and a legal description of the Wilderness shall—

1 (1) be filed by the Secretary with the Com-
2 mittee on Energy and Natural Resources of the Sen-
3 ate and the Committee on Resources of the House
4 of Representatives as soon as practicable after the
5 date of the enactment of this Act;

6 (2) have the same force and effect as if in-
7 cluded in this Act, except that the Secretary may
8 correct clerical and typographical errors in the legal
9 description and Wilderness map; and

10 (3) be on file and available for public inspection
11 in the appropriate offices of the Bureau of Land
12 Management.

13 (c) MANAGEMENT OF WILDERNESS.—Subject to
14 valid existing rights, the Wilderness shall be managed by
15 the Secretary, as appropriate, in accordance with the Wil-
16 derness Act (16 U.S.C. 1131 et seq.) and this Act, except
17 that, with respect to the Wilderness, any reference in the
18 Wilderness Act to the effective date of the Wilderness Act
19 shall be deemed to be a reference to the date of enactment
20 of this Act.

21 (d) MANAGEMENT OF NEWLY ACQUIRED LAND.—
22 Any land within the boundaries of the Wilderness that is
23 acquired by the Federal Government shall become part of
24 the Wilderness within which the land is located and shall

1 be managed in accordance with this Act and other laws
 2 applicable to the Wilderness.

3 (e) GRAZING.—Grazing of livestock in the Wilder-
 4 ness, where established before the date of enactment of
 5 this Act, shall be administered in accordance with the pro-
 6 visions of section 4(d)(4) of the Wilderness Act (16 U.S.C.
 7 1133(d)(4)).

8 (f) FISH AND WILDLIFE.—As provided in section
 9 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)),
 10 nothing in this section shall be construed as affecting the
 11 jurisdiction or responsibilities of the State with respect to
 12 fish and wildlife in the State.

13 **SEC. 5. LAND HELD IN TRUST.**

14 (a) IN GENERAL.—Subject to valid existing rights
 15 and the conditions under subsection (d), all right, title,
 16 and interest of the United States in and to the lands (in-
 17 cluding improvements, appurtenances, and mineral rights
 18 to the lands) generally depicted on the Trust Area map
 19 shall, on receipt of consideration under subsection (c) and
 20 adoption and approval of regulations under subsection (d),
 21 be declared by the Secretary to be held in trust by the
 22 United States for the Pueblo and shall be part of the
 23 Pueblo's Reservation.

1 (b) MAP AND LEGAL DESCRIPTION.—The Trust
2 Area map and a legal description of the land described
3 in subsection (a) shall—

4 (1) be filed by the Secretary with the Com-
5 mittee on Energy and Natural Resources of the Sen-
6 ate and the Committee on Resources of the House
7 of Representatives as soon as practicable after the
8 date of the enactment of this Act;

9 (2) have the same force and effect as if in-
10 cluded in this Act, except that the Secretary may
11 correct clerical and typographical errors in the legal
12 description and Trust Area map; and

13 (3) be on file and available for public inspection
14 in the appropriate offices of the Bureau of Land
15 Management.

16 (c) CONSIDERATION.—

17 (1) IN GENERAL.—In consideration for the con-
18 veyance authorized under subsection (a), the Pueblo
19 shall pay to the Secretary the amount that is equal
20 to the fair market value of the land conveyed, as
21 subject to the terms and conditions in subsection
22 (d), as determined by an independent appraisal.

23 (2) AVAILABILITY.—Any amounts paid under
24 paragraph (1) shall be available to the Secretary,
25 without further appropriation and until expended,

1 for the acquisition from willing sellers of land or in-
 2 terests in land in the State.

3 (d) PUBLIC ACCESS.—

4 (1) IN GENERAL.—Subject to paragraph (2),
 5 the declaration of trust and conveyance under sub-
 6 section (a) shall be subject to the continuing right
 7 of the public to access the land for recreational, sce-
 8 nic, scientific, educational, paleontological, and con-
 9 servation uses, subject to any regulations for land
 10 management and the preservation, protection, and
 11 enjoyment of the natural characteristics of the land
 12 that are adopted by the Pueblo and approved by the
 13 Secretary.

14 (2) CONDITIONS.—

15 (A) IN GENERAL.—The land conveyed
 16 under subsection (a) shall be maintained as
 17 open space, and the natural characteristics of
 18 the land shall be preserved in perpetuity.

19 (B) PROHIBITED USES.—The use of mo-
 20 torized vehicles (except on existing roads or as
 21 is necessary for the maintenance and repair of
 22 facilities used in connection with grazing oper-
 23 ations), mineral extraction, housing, gaming,
 24 and other commercial enterprises shall be pro-

1 hibited within the boundaries of the land con-
 2 veyed under subsection (a).

3 (e) JUDICIAL RELIEF.—

4 (1) IN GENERAL.—To enforce subsection (d),
 5 any person may bring a civil action in the United
 6 States District Court for the District of New Mexico
 7 seeking declaratory or injunctive relief.

8 (2) SOVEREIGN IMMUNITY.—The Pueblo shall
 9 not assert sovereign immunity as a defense or bar
 10 to a civil action brought under paragraph (1).

11 (3) EFFECT.—Nothing in this section—

12 (A) authorizes a civil action against the
 13 Pueblo for money damages, costs, or attorneys
 14 fees; or

15 (B) except as provided in paragraph (2),
 16 abrogates the sovereign immunity of the Pueb-
 17 lo.

18 (f) EFFECT.—Nothing in this section shall have the
 19 effect of terminating or affecting the renewal of any val-
 20 idly issued right-of-way or the customary operation, main-
 21 tenance, repair, and replacement activities in such right-
 22 of-way, issued, granted, or permitted by the Secretary on
 23 the date of enactment of this Act.

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