

OJITO WILDERNESS ACT

Mrs. MUSGRAVE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 156) to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

The Clerk read as follows:

S. 156

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ojito Wilderness Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **MAP.**—The term “map” means the map entitled “Ojito Wilderness Act” and dated October 1, 2004.

(2) **PUEBLO.**—The term “Pueblo” means the Pueblo of Zia.

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

(4) **STATE.**—The term “State” means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

(a) **IN GENERAL.**—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprises approximately 11,183 acres, as generally depicted on the map, and which shall be known as the “Ojito Wilderness”.

(b) **MAP AND LEGAL DESCRIPTION.**—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

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

(c) **MANAGEMENT OF WILDERNESS.**—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) **MANAGEMENT OF NEWLY ACQUIRED LAND.**—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) **MANAGEMENT OF LANDS TO BE ADDED.**—The lands generally depicted on the map as “Lands to be Added” shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(f) **RELEASE.**—The Congress hereby finds and directs that the lands generally depicted

on the map as “Lands to be Released” have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) **GRAZING.**—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and 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 One Hundred First Congress (H. Rept. 101-405).

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

(i) **WATER RIGHTS.**—

(1) **FINDINGS.**—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) **STATE WATER LAW.**—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) **NEW PROJECTS.**—

(A) **WATER RESOURCE FACILITY.**—As used in this subsection, the term “water resource facility”—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) **RESTRICTION ON NEW WATER RESOURCE FACILITIES.**—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the develop-

ment of any new water resource facility within the wilderness area designated by this Act.

(j) **WITHDRAWAL.**—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the “BLM Lands Authorized to be Acquired by the Pueblo of Zia” are withdrawn from—

(1) all forms of entry, appropriation, and 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) **EXCHANGE.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

SEC. 4. LAND HELD IN TRUST.

(a) **IN GENERAL.**—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as “BLM Lands Authorized to be Acquired by the Pueblo of Zia” shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo’s Reservation.

(b) **DESCRIPTION OF LANDS.**—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) **CONSIDERATION.**—

(1) **IN GENERAL.**—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) **APPRAISAL.**—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) **AVAILABILITY.**—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) **PUBLIC ACCESS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided*, That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) **CONDITIONS.**—Except as provided in subsection (e)—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS OF WAY.—

(1) EXISTING RIGHTS OF WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS OF WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the “Rights-of-Way corridor #1” in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

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

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

(3) EFFECT.—Nothing in this section—

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

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Madam Speaker, I yield myself such time as I may consume.

□ 1330

Madam Speaker, S. 156, introduced by Senator BINGAMAN of New Mexico, and a companion to H.R. 362 sponsored by the gentleman from New Mexico (Mr. UDALL) would designate approximately the 11,000-acre Ojito Wilderness Area in Sandoval County, New Mexico,

as wilderness. This Federal land was determined by the Bureau of Land Management in 1991 as suitable for wilderness designation. This bill would also take certain land into trust for the Pueblo of Zia to protect its religious and cultural sites in Zia.

Madam Speaker, S. 156 is supported by the majority and the minority of the administration. I urge adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Madam Speaker, I yield myself such time as I may consume.

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Madam Speaker, we support passage of S. 156, the Ojito Wilderness Act. This bill designates the Ojito Wilderness Study Area, an area totaling approximately 11,000 acres, as a permanent wilderness to be protected pursuant to the 1964 Wilderness Act. The bill also provides for the purchase and transfer of adjacent Bureau of Land Management lands to the Pueblo of Zia. These lands, totaling approximately 13,000 acres, are contiguous to the current boundaries of the Pueblo. This area will be taken into trust and held for the benefit of the Pueblo by the Secretary of the Interior, and will be managed in perpetuity by the Pueblo as wilderness.

As the lead co-sponsor in the House, I would like to take this opportunity to greatly acknowledge my colleague from New Mexico (Mrs. WILSON) and fellow co-sponsor. I thank the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), the chairman and ranking member of the Committee on Resources, for bringing the Ojito Wilderness Act to the floor. This bipartisan, bicameral legislation is the result of good-faith collaboration and cooperation among many people in New Mexico and among many of us here in the United States Congress. This is truly a compromise bill. I encourage my colleagues to support it.

I am proud to say that New Mexicans recognize how vitally important it is to protect natural areas, to encourage the sustainable use of our State's natural resources, and to honor the role land plays in the lives of Native Americans. As this Ojito legislation demonstrates, with creativity and cooperation, we can find solutions compatible with all of these necessities.

This proposal has been under consideration for many years. In 1991 Manuel Lujan, the Secretary of the Interior in the former President Bush's Cabinet, recommended the Ojito area to Congress for wilderness designation. The BLM has evaluated this area and found it qualifies for full wilderness status and protection.

The legislation has the explicit support of the Governor of New Mexico, the counties of Sandoval and Bernalillo, individual members of the

State government, including our State Land Commissioner Patrick Lyons, the Pueblo of Zia and its members, the adjacent private land owners and ranchers who graze their cattle on the land, numerous environmental groups, and business owners and private citizens living and working nearby.

The Ojito Wilderness Study Area is characterized by pristine and dramatic landforms and rock structures and by several rare plant populations that are indigenous to the area. Ojito is also recognized for its high density of cultural and archeological sites, including sites that have religious significance to Pueblo Indians.

This legislation is of particular importance for the Pueblo of Zia. The Pueblo's reservation lands currently lie in two noncontiguous sections. Zia has made a concerted effort over years to adjoin its reservation lands. This legislation will help make that long-standing goal a reality. The Pueblo has consistently and openly worked in cooperation with other interested parties to reach a mutually satisfactory arrangement for the protection of these important lands as undeveloped open space with continued public access. And, in an additional gesture of good faith, the Pueblo has waived its sovereign immunity from suit for matters arising under the provisions of this bill.

Considering the above, I think this bill does the right thing by ensuring the preservation, protection, and public accessibility of this special area of New Mexico for future generations of Americans. Allow me to express a special thanks to New Mexico Senators BINGAMAN and DOMENICI, the sponsors of this bill in the Senate. Let me further express my gratitude to the Governor of Zia, Zia Pueblo, Teofilo Pino, and to the Pueblo's former Governor and current Tribal Administrator Peter Pino, and also to Martin Heinrich, Albuquerque City Councilor and long-time volunteer for the Coalition for New Mexico's Wilderness for their strong and fair efforts in reaching a meaningful and positive compromise.

I would also like to fondly acknowledge my Senior Legislative Assistant Johanna Polsenberg and my field representative Sarah Cobb as well as Rick Healy and Rob Howarth on the Committee on Resources for their tireless and dedicated work on this important and far-sighted legislation.

Finally, I would like to thank my father, Stewart Udall, for his work over 40 years ago on the enactment of the Wilderness Act during his tenure as Secretary of the Interior. It is with the deepest respect and awe in the warp and weft of history that I might find myself on the floor of the House today honoring my father's legacy and his tremendous dedication to ensuring the preservation of wilderness, as stated in the act itself, lands “in contrast to those areas where man and his works dominate the landscape, where the Earth and its communities of life are untrammelled by man.”

Madam Speaker, I reserve the balance of my time.

Mrs. MUSGRAVE. Madam Speaker, I yield such time as she may consume to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Madam Speaker, in the 108th Congress the gentleman from New Mexico (Mr. UDALL) introduced and we passed through this House legislation almost identical to this and we reintroduced it in this Congress. It has had a companion bill in the Senate which has now passed the Senate. And after conferring with the committee and with the gentleman from New Mexico (Mr. UDALL) we decided to take up the Senate version of the bill in this House rather than passing the House bill because that means that the next stop for this legislation is the President's desk.

The bill that the gentleman and I pass today will not have the gentleman's name on it, but it certainly is a result of his leadership that was brought here to the floor of the House, and I want to commend the gentleman from New Mexico (Mr. UDALL).

I also wanted to commend Johanna Polsenberg for her work on this piece of legislation. It has been a real joy to work with her. And my staff member, Colin Hunter, I think also deserves some credit. Without the two of them, all of the little things that had to get done would have been left to others and might not have gotten done. So they have had a tremendous impact. I also thank the gentleman from New Mexico (Mr. UDALL) very much for his leadership.

This legislation is locally developed and locally supported. It is the result of a decade of work by the BLM and the Zia Pueblo and the State office working out all the little details of rights-of-way and lands transfers and where the fences go and who has what rights where. It is a very balanced bill that puts into law the Ojito Wilderness, an 11,000-acre piece of land, that will be protected 40 miles northwest of Albuquerque, New Mexico.

As the gentleman from New Mexico (Mr. UDALL) mentioned, Manuel Lujan was the one who was the Secretary of the Interior when he recommended to the Congress that this piece of land should be set aside as an appropriate area for wilderness. The other thing that it does that I think is very important and has become important to all of us is that it allows for the purchase and transfer of BLM lands to Zia Pueblo. These lands will continue to have public access under the statute and remain undeveloped, but it will allow the Pueblo of Zia to unify its Pueblo and to connect the two noncontiguous areas of lands that are now part of its Pueblo.

I think one of the things that is wonderful about these jobs that we have the honor to hold is the opportunity to work with interesting people who are committed to different projects around our States and around the Nation.

There are a lot of people who deserve thanks for making this legislation a reality today, certainly the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. RADANOVICH) for their support and their staff support in getting this worked out and worked through, and of course our staffs and the gentleman from New Mexico's leadership on this.

I think I would also like to recognize some New Mexicans. As I mentioned, this was locally developed and locally supported. Successive Governors and Tribal Council members of Zia Pueblo took a leadership role early on, including the current Governor, Teofilo Pino, and his predecessor and long-time Tribal Administrator Governor Peter Pino and their Counsel, David Mielke.

I think we would probably agree that one of the most colorful, interesting characters in New Mexico is Peter Pino. I could sit and listen to stories from him for a long time. He has taught us so very much.

Additionally, I would like to thank Oscar Simpson of the New Mexico Wildlife Federations, Stephen Capra of the New Mexico Wilderness Alliance, Melyssa Watson of the Wilderness Support Center, and former and current Chair of the Coalition for New Mexico Wilderness, Jim Scarantino and Arturo Sandoval, and former Sandoval County Commissioner Daymon Ely. Linda Rundell and Lisa Morrison from the BLM and Patrick Lyons, the State Land Commissioner, were also very, very helpful in this legislation.

Finally, I would also like to thank Albuquerque City Councilor Martin Heinrich, who from the very beginning has been instrumental in ironing out the little problems that come up, working through issues associated with this legislation, and making things happen.

I think, as you can see, when things are successful there are a lot of people involved behind the scenes making them happen, and without them this legislation would not be here on the floor of the House today. I am very pleased that the Ojito Wilderness is going to get the permanent wilderness designation that it deserves and the Pueblo of Zia is going to achieve its long-sought transfer of important and ancestral lands that will unite two noncontiguous areas of its reservation.

Mr. UDALL of New Mexico. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the Senate bill, S. 156.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EXTENDING THROUGH DECEMBER 31, 2007, AUTHORITY OF THE SECRETARY OF THE ARMY TO ACCEPT AND EXPEND FUNDS CONTRIBUTED BY NON-FEDERAL PUBLIC ENTITIES TO EXPEDITE THE PROCESSING OF PERMITS

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3765) to extend through December 31, 2007, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

The Clerk read as follows:

Senate amendments: Page 2, line 10, strike "December 31, 2007" and insert: "March 31, 2006".

Amend the title so as to read: "An Act to extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Colorado (Mr. SALAZAR) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, on September 20 of 2005, the House passed H.R. 3765, which provided a 2-year extension of the authority of the Corps of Engineers to accept funds to help process permit applications. This program, which has broad bipartisan support, expired on September 30 of this year. Unless it is extended, some regulatory personnel will have to be reassigned or let go, reducing the Corps' ability to process permits in a timely manner.

On October 7 of 2005 the Senate passed H.R. 3765 with an amendment to extend this program for only 6 months, until March 31, 2006. To prevent a reduction in the Corps' ability to process permits, Congressional action is urgently needed. For that reason, I ask Members to agree to the Senate amendment.

This issue of how long the authority to accept funds to process permits should be extended will be revisited in the House-Senate Conference on the Water Resources Development Act, after the other body passes their WRDA bill.

This is an important thing for the Army Corps of Engineers. This is very helpful to them and it is important