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### BANDELIER NATIONAL MONUMENT ADMINISTRATIVE IMPROVEMENT AND WATERSHED PROTECTION ACT OF 1997

APRIL 29, 1998.—Ordered to be printed

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

### REPORT

[To accompany S. 1132]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1132) to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 4, strike line 3 in its entirety and insert in lieu thereof: “(b) PURPOSE.—The purpose of this Act is to”.
2. On page 4, line 13 strike the word “map”.
3. On page 4, lines 14 and 15, strike the words<sup>1</sup> “Alamo Headwaters Proposed Additions” dated 6/97.<sup>1</sup> and insert lieu thereof,<sup>1</sup> “Proposed Boundary Expansion Map Bandelier National Monument” dated July, 1997.<sup>1</sup>
4. On page 4, lines 18 through 25, strike section 4 in its entirety and insert the following:

**“SEC. 4. LAND ACQUISITION.**

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Secretary of the Interior is authorized to acquire lands and interests therein within the boundaries of the area added to the Monument by this Act by donation, purchase with donated or appropriated funds, transfer with another Federal agency, or exchange: *Provided:* That no lands or interests therein may be acquired except with the consent of the owner thereof.

“(b) STATE AND LOCAL LANDS.—Lands or interests therein owned by the State of New Mexico or a political subdivision thereof may only be acquired by donation or exchange.

“(c) ACQUISITION OF LESS THAN FEE INTERESTS IN LAND.—The Secretary may acquire less than fee interests in land only if the Secretary determines that such less

than fee acquisition will adequately protect the Monument from flooding, erosion, and degradation of its drainage waters.”.

5. On page 5, line 7, strike “August 25, an Act” and insert in lieu thereof, “August 25, 1916, an Act”.

#### PURPOSE OF THE MEASURE

The purpose of S. 1132 is to modify the boundary of Bandelier National Monument in New Mexico to add approximately 935 acres of land within the monument’s upper watershed.

#### BACKGROUND AND NEED

Bandelier National Monument (Bandelier) was established by Presidential proclamation on February 11, 1916. Bandelier was managed by the U.S. Forest Service from 1916 until February, 1932, when the National Park Service assumed management. The 1916 establishing proclamation stated: *Whereas, certain prehistoric aboriginal ruins . . . are of unusual ethnologic, scientific, and educational interest, and it appears that the public interests would be promoted by reserving these relics of a vanished people, with as much land as may be necessary for the proper protection thereof . . .*” Bandelier originally encompassed 22,352 acres, but has been modified four times over the years to include a current total acreage of 32,737 acres.

Native Americans are believed to have lived in the Bandelier region for the past 10,000 years. Bandelier, in its current configuration, contains an estimated 4,500 archaeological sites. Some of these sites are relatively simple, such as ceramic “scatters”, ancient trails and rock art panels. Some are quite complex, including prehistoric villages up to 300 rooms.

Bandelier is considered to have a higher density of Anasazi sites than mesa Verde or Chaco Culture National Historic Park. Anasazi are the mysteriously vanished people whom archaeologists believe came together in the time period between 1100 and 1600 A.D. to form large communal villages based on an agricultural way of life. Many of the important artifacts of this area lie on the ground surface, making them susceptible to looting, loss through development and potential scattering by flooding and erosion. These artifacts are considered important by scientists for piecing together the story of how these ancient people lived and traded. For example, obsidian quarries and tool-making sites from this area produced tools that have been found as far away as Oklahoma. For these reasons, proponents of this legislation believe incorporating lands upstream from certain drainages within Bandelier would have a stabilizing and protective effect on cultural resources within Bandelier National Monument.

In 1984, a private firm sold a 112 acre portion of the “Baca Ranch” in the headwaters of the Alamo Canyon, upstream and adjacent to the Upper Frijoles section of the Bandelier. This 112 acres segment became known as Elk Meadows. The owners of Elk Meadows built a home and eventually sold a 10 acre and 12 acre parcel to other buyers.

In March of 1997, the Sandoval County Planning Commission gave final plat approval to split the remaining area of Elk Meadows into an additional eight lots of about 11 acres each. During the

review period, testimony was received in opposition of the approval for subdivision by the local Pueblos, the NPS, environmentalists and other parties. The private owner of Elk Meadows offered to delay subdividing the remainder of his land for three months, providing an opportunity for the government to acquire the parcel from him. When the three month time period expired, the owner began to market the lots in June 1978.

By the end of July 1997, a national non-profit land conservation organization, the Trust for Public Land, announced that it had reached an agreement with the owner of Elk Meadows to purchase the land, provided Congress appropriates money for the acquisition by December 1997. Such an appropriation would come from the Land and Water Conservation Fund to facilitate public purchase of the land.

S. 1132 modifies the monument's boundary to include approximately 935 acres in the Alamo Headwaters would provide the NPS the ability to manage so as to protect downstream cultural resources from potential flooding and erosion. Not acquiring the upstream lands would, by contrast, leave resources within Bandelier at risk. The acquisition would also allow the area to be co-managed with other nearby agencies for a more natural fire regime which would, in turn, provide more sustainable habitat for wildlife the NPS is charged with protecting. At least four species of wildlife in the area are listed as endangered.

#### LEGISLATIVE HISTORY

S. 1132 was introduced by Senator Bingaman on July 31, 1997. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on S. 1132 on October 23, 1997.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 10, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1132, if amended as described herein.

#### COMITTEE AMENDMENT

During the consideration of S. 1132, the Committee adopted five amendments. Four of the amendments make technical and clarifying changes to the bill as introduced. The fifth amendment also makes clarifying changes and adds language requiring the National Park Service to acquire the lands added to the monument only on a willing seller basis. The amendment also makes clear that public lands owned by the State may only be acquired by donation, or exchange.

#### SECTION BY SECTION ANALYSIS

*Section 1* designates the short title of the Act as the "Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997".

*Section 2(a)* presents Congressional findings and purposes as follows:

*Paragraph (1)* states that Bandelier was established to preserve and protect the archaeological resources of a vanished people with as much land as may be necessary for resource protection;

*Paragraph (2)* notes that at various times, additional lands have been added to the Monument and that in 1976, Congress created the 23,267-acre Bandelier Wilderness;

*Paragraph (3)* states that the Monument has potential threats from flooding, erosion and water quality deterioration because of the mixed ownership of the upper watersheds, along the western Monument boundary, particularly in Alamo Canyon.

*Section 2(b)* states the purposes of the Act are to allow for acquisition and enhanced protection of the lands within the Monument's upper watershed by modifying the boundary of the Monument.

*Section 3* directs that the boundaries of the Monument be modified to include an additional 935 acres of land within the upper Alamo watershed as depicted on a National Park service map entitled, "Alamo Headwaters Additions", dated 6/97.

*Section 4* authorizes the Secretary to acquire lands as he determines will adequately protect the Monument from flooding erosion and degradation by donation, transfer or purchase with appropriated or donated funds. No lands or interest in lands may be acquired without the consent of the owner. Lands or interest in lands owned by the State of New Mexico or a political subdivision may only be acquired by donation or exchange.

*Section 5* states that the Monument shall be managed by the Secretary through the Director of the National Park Service, including lands added through this Act, in accordance with the Act of August 25, 1916, establishing the National Park Service.

*Section 6* authorizes such sums as are necessary to carry out the purposes of this Act.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 30, 1998.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1132, the Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997.

If you wish further detail on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, *Director*).

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 1132—Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997*

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1132 would cost the federal government between \$3 million and \$6 million over the next two fiscal years. Enacting this legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments.

S. 1132 would expand the boundaries of the Bandelier National Monument in New Mexico to include about 935 acres of adjacent lands. The bill would authorize the National Park Service (NPS) to acquire the additional acreage or interests therein by purchase, donation, transfer, or exchange. Section 6 of the bill would authorize the appropriation of whatever amounts are necessary for this purpose.

Depending on the outcome of formal property appraisals that would have to be conducted before purchasing the land, CBO estimates that the NPS would spend between \$3 million and \$6 million over the next two years to acquire the 935 acres and to complete mapping, surveying, and fencing the new boundary for the monument. Expenses to develop and manage the additional land and make payments to local governments in lieu of taxes would be minimal. For purposes of this estimate, CBO assumes that S. 1132 would be enacted by the beginning of fiscal year 1999 and the full amounts needed to purchase all of the additional acreage would be appropriated by fiscal year 2000. This estimate is based on information obtained from the NPS, the Trust for Public Lands, and local property owners.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Paul N. Van de Water, 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. 1132. 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 enactment of S. 1132, as ordered reported.

## EXECUTIVE COMMUNICATIONS

On March 11, 1998, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1132. These reports had

not been received at the time the report on S. 1132 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT BY DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you to address S. 1132, the "Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997." We strongly support this proposal and appreciate the interest of Senator Bingaman in protecting the monument's resources.

We recommend two changes to the legislation. One change would correct an oversight in the implementation of the 1976 boundary expansion of Bandelier National Monument (P.L. 94-578) by including 120 acres within the monument; the other change would expand the present proposal by adding an additional 1,600 acres in order to use existing rights-of-way as boundaries.

If enacted, S. 1132 would allow the National Park Service to modify the boundary of Bandelier National Monument by providing for the acquisition of lands in the upper watershed of the Alamo Headwaters by donation, purchase, exchange or transfer of other Federal lands. The proposed addition consists of four adjacent parcels totaling approximately 935 acres located in Sandoval County, New Mexico, west of the present park boundary. The landowners have indicated a willingness to sell.

The lands in the proposed expansion are in the Jemez Mountains, the southernmost extension of one range of the Rocky Mountains. The Jemez Mountains are remnants of a large volcanic system that was formed about one-million years ago by two massive eruptions that blanketed the area with deposits of ash and pumice up to 1,000 feet thick. Melting snows and rains have carved deep, steep-sided canyons into the rock surfaces that now carry water into the Rio Grande. Five such drainages define the topography of Bandelier National Monument. Of these, the most steep and narrow is Alamo Canyon. A great gash in the plateau, much of Alamo Canyon drops 500 feet, between rims less than 1/4 mile apart. The area is marked by thick, mixed conifer forests, springs and meadows. The land identified in S. 1132 is entirely within the upper watershed of the Alamo Canyon area. It is contiguous with the monument's northwest boundary and forms a natural ecosystem-based watershed boundary. It is the water source of Alamo Canyon, one of three principal canyons of Bandelier National Monument and an area of special sensitivity for threatened and endangered species, including the American Peregrine Falcon and bald eagle. Migratory birds use this area as a major north-south flyway. The area is home to a diverse population of mammals, including elk, mule deer, black bear, bobcat, fox and mountain lion.

Bandelier National Monument was established by Presidential Proclamation in 1916. The original 22,300 acres of the monument were set aside within the Santa Fe National Forest in order to pro-

tect unusually rich archeological resources. The Forest Service continued to supervise the monument until 1932, when responsibility for the area was transferred to the National Park Service. There have been legislative boundary adjustments in 1932, 1961, 1976 and 1977—all of which were intended to improve the protection and management of the monument's cultural and natural resources. The monument now encompasses approximately 33,000 acres, nearly two-thirds designated as wilderness. As a result of these changes, the purpose of the park has expanded. In addition to protecting archaeological resources of the ancestral Pueblo culture (1200–1500 A.D.), the monument protects the natural setting in which these ancestral cultures flourished. In addition, Bandelier's historic district contains the largest concentration of Civilian Conservation Corps-built structures and furnishings in the National Park System. The monument includes significant geologic features of the world-famous Jemez volcanic field. This small area supports many vegetation types and associated fauna due to its range of elevation and contains vital habitat for numerous threatened, endangered and sensitive species.

The western boundary of Bandelier National Monument cuts across several watersheds, leaving the monument extremely vulnerable to upstream activities, such as subdivision and development. In the upper Alamo Headwaters, the development of a subdivision has already been approved. We believe that development in the headwaters area would endanger this sensitive watershed, resulting effectively and fully manage resources to the highest standards of the National Park Service.

That completes my remarks. I would be happy to answer any questions that you may have.

#### 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 S. 1132, as ordered reported.

