

Union Calendar No. 440

108TH CONGRESS
2^D SESSION

H. R. 3176

[Report No. 108-717]

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 HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2003

Mr. UDALL of New Mexico (for himself and Mrs. WILSON of New Mexico) introduced the following bill; which was referred to the Committee on Resources

OCTOBER 4, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on September 24, 2003]

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,*

1 **SECTION 1. SHORT TITLE.**

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

3 **SEC. 2. DEFINITIONS.**

4 *In this Act:*

5 (1) *PUEBLO.*—*The term “Pueblo” means the*
6 *Pueblo of Zia.*

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

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

11 (4) *MAP.*—*The term “map” means the map enti-*
12 *tled “Ojito Wilderness Act” and dated September 8,*
13 *2004.*

14 (5) *WILDERNESS.*—*The term “Wilderness”*
15 *means the Ojito Wilderness designated under section*
16 *3(a).*

17 **SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.**

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

1 **(b) MAP AND LEGAL DESCRIPTION.**—*The map and a*
2 *legal description of the Wilderness shall—*

3 *(1) be filed by the Secretary with the Committee*
4 *on Energy and Natural Resources of the Senate and*
5 *the Committee on Resources of the House of Rep-*
6 *resentatives as soon as practicable after the date of the*
7 *enactment of this Act;*

8 *(2) have the same force and effect as if included*
9 *in this Act, except that the Secretary may correct*
10 *clerical and typographical errors in the legal descrip-*
11 *tion and map; and*

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

15 **(c) MANAGEMENT OF WILDERNESS.**—*Subject to valid*
16 *existing rights, the Wilderness shall be managed by the Sec-*
17 *retary in accordance with the Wilderness Act (16 U.S.C.*
18 *1131 et seq.) and this Act, except that, with respect to the*
19 *Wilderness, any reference in the Wilderness Act to the effec-*
20 *tive date of the Wilderness Act shall be deemed to be a ref-*
21 *erence to the date of the enactment of this Act.*

22 **(d) MANAGEMENT OF NEWLY ACQUIRED LAND.**—*If ac-*
23 *quired by the United States, the following land shall become*
24 *part of the Wilderness and shall be managed in accordance*
25 *with this Act and other laws applicable to the Wilderness:*

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

3 (2) *Any land within the boundaries of the Wil-*
4 *derness.*

5 (e) *MANAGEMENT OF LANDS TO BE ADDED.—The*
6 *lands generally depicted on the map as “Lands to be*
7 *Added” shall become part of the Wilderness if the United*
8 *States acquires, or alternative adequate access is available*
9 *to section 12 of township 15 north, range 01 west.*

10 (f) *RELEASE.—The Congress hereby finds and directs*
11 *that the lands generally depicted on the map as “Lands*
12 *to be Released” have been adequately studied for wilderness*
13 *designation pursuant to section 603 of the Federal Land*
14 *Policy and Management Act of 1976 (43 U.S.C. 1782) and*
15 *no longer are subject to the requirement of section 603(c)*
16 *of such Act (16 U.S.C. 1782(c)) pertaining to the manage-*
17 *ment of wilderness study areas in a manner that does not*
18 *impair the suitability of such areas for preservation as wil-*
19 *derness.*

20 (g) *GRAZING.—Grazing of livestock in the Wilderness,*
21 *where established before the date of the enactment of this*
22 *Act, shall be administered in accordance with the provisions*
23 *of section 4(d)(4) of the Wilderness Act (16 U.S.C.*
24 *1133(d)(4)) and the guidelines set forth in Appendix A of*
25 *the Report of the Committee on Interior and Insular Affairs*

1 to accompany H.R. 2570 of the One Hundred First Con-
2 gress (H. Rept. 101-405).

3 (h) *FISH AND WILDLIFE*.—As provided in section
4 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), noth-
5 ing in this section shall be construed as affecting the juris-
6 diction or responsibilities of the State with respect to fish
7 and wildlife in the State.

8 (i) *WATER*.—Nothing in this section shall affect any
9 existing valid water right.

10 (j) *WITHDRAWAL*.—Subject to valid existing rights, the
11 Wilderness, the lands to be added under subsection (e), and
12 lands authorized to be acquired by the Pueblo as generally
13 depicted on the map are withdrawn from—

14 (1) all forms of entry, appropriation, and dis-
15 posal under the public land laws;

16 (2) location, entry, and patent under the mining
17 laws; and

18 (3) operation of the mineral leasing, mineral
19 materials, and geothermal leasing laws.

20 (k) *EXCHANGE*.—Not later than 3 years after the date
21 of the enactment of this Act, the Secretary shall seek to com-
22 plete an exchange for State land within the boundaries of
23 the Wilderness.

1 **SEC. 4. LAND HELD IN TRUST.**

2 (a) *IN GENERAL.*—Subject to valid existing rights and
3 the conditions under subsection (d), all right, title, and in-
4 terest of the United States in and to the lands (including
5 improvements, appurtenances, and mineral rights to the
6 lands) generally depicted on the map as “BLM Lands Au-
7 thorized to be Acquired by the Pueblo of Zia” shall, on re-
8 ceipt of consideration under subsection (c) and adoption
9 and approval of regulations under subsection (d), be de-
10 clared by the Secretary to be held in trust by the United
11 States for the Pueblo and shall be part of the Pueblo’s Res-
12 ervation.

13 (b) *DESCRIPTION OF LANDS.*—The boundary of the
14 lands authorized by this section for acquisition by the Pueb-
15 lo where generally depicted on the map as immediately ad-
16 jacent to CR906, CR923, and Cucho Arroyo Road shall be
17 100 feet from the center line of the road.

18 (c) *CONSIDERATION.*—

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

25 (2) *APPRAISAL.*—To determine the fair market
26 value, the Secretary shall conduct an appraisal paid

1 *for by the Pueblo that is performed in accordance*
2 *with the Uniform Appraisal Standards for Federal*
3 *Land Acquisitions and the Uniform Standards of*
4 *Professional Appraisal Practice.*

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

10 (d) *PUBLIC ACCESS.*—

11 (1) *IN GENERAL.*—*Subject to paragraph (2), the*
12 *declaration of trust and conveyance under subsection*
13 *(a) shall be subject to the continuing right of the pub-*
14 *lic to access the land for recreational, scenic, sci-*
15 *entific, educational, paleontological, and conservation*
16 *uses, subject to any regulations for land management*
17 *and the preservation, protection, and enjoyment of the*
18 *natural characteristics of the land that are adopted*
19 *by the Pueblo and approved by the Secretary; Pro-*
20 *vided that the Secretary shall ensure that the rights*
21 *provided for in this paragraph are protected and that*
22 *a process for resolving any complaints by an ag-*
23 *grieved party is established.*

24 (2) *CONDITIONS.*—*Except as provided in sub-*
25 *section (f)—*

1 (A) *IN GENERAL.*—*The land conveyed under*
2 *subsection (a) shall be maintained as open space,*
3 *and the natural characteristics of the land shall*
4 *be preserved in perpetuity.*

5 (B) *PROHIBITED USES.*—*The use of motor-*
6 *ized vehicles (except on existing roads or as is*
7 *necessary for the maintenance and repair of fa-*
8 *ilities used in connection with grazing oper-*
9 *ations), mineral extraction, housing, gaming,*
10 *and other commercial enterprises shall be prohib-*
11 *ited within the boundaries of the land conveyed*
12 *under subsection (a).*

13 (e) *RIGHTS OF WAY.*—

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

16 (A) *any validly issued right-of-way, or the*
17 *renewal thereof; or*

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

22 (2) *NEW RIGHTS OF WAY AND RENEWALS.*—

23 (A) *IN GENERAL.*—*The Pueblo shall grant*
24 *any reasonable requests for rights-of-way for*
25 *utilities and pipelines over land acquired under*

1 *subsection (a) that is designated as the Rights-*
2 *of-Way corridor #1 as established in the Rio*
3 *Puerco Resource Management Plan in effect on*
4 *the date of the grant.*

5 *(B) ADMINISTRATION.—Any right-of-way*
6 *issued or renewed after the date of the enactment*
7 *of this Act over land authorized to be conveyed*
8 *by this section shall be administered in accord-*
9 *ance with the rules, regulations, and fee payment*
10 *schedules of the Department of the Interior, in-*
11 *cluding the Rio Puerco Resources Management*
12 *Plan in effect on the date of issuance or renewal*
13 *of the right-of-way.*

14 *(f) JUDICIAL RELIEF.—*

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

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

22 *(3) EFFECT.—Nothing in this section—*

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

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

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