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RÍO GRANDE DEL NORTE NATIONAL CONSERVATION AREA ESTABLISHMENT ACT

JANUARY 13, 2012.—Ordered to be printed

Filed, under authority of the order of the Senate of December 17, 2011

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

R E P O R T

[To accompany S. 667]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 667) to establish the Río Grande del Norte National Conservation Area in the State of New Mexico, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 667 is to establish the approximately 235,980-acre Río Grande del Norte National Conservation Area and to designate the 13,420-acre Cerro del Yuta Wilderness and 8,000-acre Río San Antonio Wilderness in New Mexico.

BACKGROUND AND NEED

S. 667 would designate the Río Grande del Norte National Conservation Area, consisting of approximately 235,980 acres of public land managed by the Bureau of Land Management in northern New Mexico, including two wilderness areas—the 8,000-acre Río San Antonio Wilderness, currently administered as a Wilderness Study Area, and the 13,420-acre Cerro del Yuta Wilderness.

The National Conservation Area contains high mesa sagebrush-grasslands interspersed with extinct volcanic cinder cones covered by piñon-juniper woodlands. It also incorporates the upper reaches of the Río Grande Gorge, previously designated as a Wild and Scenic River. The plateau provides habitat for bighorn sheep, deer, elk,

and antelope, as well as several types of raptors that hunt throughout the area, including peregrine falcons, golden eagles, and bald eagles. The riparian area along the Río Grande provides habitat for brown trout and the federally-listed endangered southwestern willow flycatcher.

The National Conservation Area also contains archeological, cultural, and historic resources relating to the settlement of the region by both indigenous populations and later by early Hispanic settlers. Today, residents and visitors alike use this area for hunting, fishing, river rafting, hiking, and other recreational activities.

LEGISLATIVE HISTORY

S. 667 was introduced by Senators Bingaman and Udall of New Mexico on March 29, 2011. The Subcommittee on Public Lands and Forests held a hearing on S. 667 on May 18, 2011 (S. Hrg. 112–39). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 667 favorably reported. Senators Risch, Lee and Paul asked to be recorded as opposing the measure.

During the 111th Congress, the Committee considered similar legislation, S. 874, also sponsored by Senators Bingaman and Udall of New Mexico. The Committee ordered the bill favorably reported with an amendment in the nature of a substitute at its business meeting on March 2, 2010 (S. Rept. 111–135).

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 10, 2011, by a voice vote of a quorum present, recommends that the Senate pass S. 667.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 defines key terms used in the bill.

Section 3(a) establishes the Río Grande del Norte National Conservation Area (Conservation Area) on approximately 235,980 acres of public land managed by the Bureau of Land Management in Taos and Río Arriba counties in the State of New Mexico. No tribal land is included within the boundary of the Conservation Area, and where the Conservation Area is adjacent to land that is held in trust for the Taos Pueblo, the boundary of the Conservation Area is the centerline of the Río Grande.

Subsection (b) describes the purposes for which the Conservation Area is established, which are to conserve, protect, and enhance the area's cultural, archaeological, natural, ecological, geological, historical, wildlife, educational, recreational, and scenic resources.

Subsection (c)(1) directs the Secretary of the Interior (Secretary) to administer the Conservation Area in a manner that protects the resources of the Conservation Area and in accordance with the laws and regulations applicable to public land, this Act, and other applicable laws.

Paragraph (2) directs the Secretary to allow only such uses that further the purposes of the Conservation Area and provides the Secretary with direction with regard to the management of motorized vehicles, grazing, the collection of piñon nuts and firewood,

utility right-of-way upgrades, and tribal cultural uses. The Committee notes that the Bureau of Land Management currently authorizes the collection of medicinal plants and herbs and conducts sales of surplus firewood from restoration projects consistent with the Federal Land Policy and Management Act of 1976 and the Río Grande Corridor Management Plan, and the BLM retains that authority, consistent with the purposes of this Act.

Subsection (d) requires the Secretary to develop a management plan for the Conservation Area within three years after the date of enactment of this Act and allows the Secretary to incorporate the Río Grande Corridor Management Plan, to the extent consistent with this Act.

The subsection further requires the Secretary to develop the management plan in consultation with state and local governments, tribal governments, land grant communities, and the public, and to consider the recommendation of Indian tribes and pueblos with respect to access and protection of religious and cultural sites, and enhancing the privacy and continuity of cultural and religious activities within the Conservation Area.

The Committee recognizes that the Bureau of Land Management and Taos Pueblo currently work cooperatively with regard to recreation and natural resource management along the shared boundary of the Río Grande. In preparing and implementing the management plan, the Committee encourages the Bureau of Land Management to continue to work cooperatively to the maximum extent possible with tribes and pueblos in the vicinity of the Conservation Area.

Subsection (e) states that any land that is acquired within the boundary of the Conservation Area shall become part of the Conservation Area and managed accordingly.

Subsection (f) clarifies that the establishment of the Conservation Area does not alter the management status of areas within the boundaries designated as a component of the Wild and Scenic Rivers System or as an area of critical environmental concern, and if there is a conflict between this Act and those designations, the more restrictive provision controls.

Section 4(a) designates approximately 13,420 acres and 8,000 acres of land managed by the Bureau of Land Management as the Cerro del Yuta Wilderness and Río San Antonio Wilderness, respectively.

Subsection (b) states that the wilderness areas shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

Subsection (c) states that any land that is acquired within the boundary of the wilderness areas shall become part of the wilderness area in which the land is located and managed accordingly.

Subsection (d) provides for the administration of livestock grazing in the wilderness areas where established before the date of enactment of the Act, in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the wilderness grazing guidelines.

Subsection (e) states that the designation of the wilderness areas shall not create a protective perimeter or buffer zone around the area or limit authorized land uses or activities outside the wilderness areas.

Subsection (f) releases from Wilderness Study Area status land within the San Antonio Wilderness Study Area that is not designated as wilderness by this Act.

Section 5(a) directs the Secretary to develop a map and legal description of the Conservation Area and wilderness areas and to make it available to the public as soon as practicable after the date of enactment of this Act.

Subsection (b) states that the Conservation Area and wilderness areas shall be administered as components of the National Landscape Conservation System.

Subsection (c) clarifies that nothing in the Act affects the State of New Mexico's jurisdiction with respect to fish and wildlife, except that zones may be established where hunting is not allowed for reasons of public safety, administration, or public use and enjoyment.

Subsection (d) withdraws, subject to valid existing rights, the Conservation Area and wilderness areas from: entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws.

Subsection (e) states that nothing in this Act enlarges, diminishes, or otherwise modifies any treaty rights.

Section 6 authorizes the appropriation of such sums as are necessary to implement the Act.

COST AND BUDGETARY CONSIDERATIONS

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

S. 667—Río Grande del Norte National Conservation Area Establishment Act

S. 667 would establish the Río Grande del Norte National Conservation Area (NCA) on land administered by the Bureau of Land Management (BLM) in New Mexico. Based on information provided by BLM, CBO estimates that enacting the legislation would have no significant impact on the federal budget. Enacting S. 667 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under S. 667, nearly 236,000 acres of public land would be designated as the Río Grande del Norte NCA, and about 21,000 acres of that area would be designated as part of the National Wilderness Preservation System. BLM, which manages the affected acreage, would be required to update existing management plans for the area. Finally, under the bill, the acreage would not be available for developing natural resources but would still be available for grazing under existing agreements.

Because the affected acreage is already protected for conservation or wilderness values, CBO estimates that implementing the bill would have no significant effect on the cost of administering the area. We expect that any costs to update the management plan for the property or to modify existing maps and other materials would be minimal. Finally, because the affected land currently produces no income (and is not expected to do so in the future), we estimate that enacting the bill would not affect offsetting receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy 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. 667.

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. 667, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 667, 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 Bureau of Land Management at the May 18, 2011 Subcommittee on Public Lands and Forests hearing on S. 667 follows:

STATEMENT OF MIKE POOL, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 667, the Río Grande Del Norte National Conservation Area Establishment Act. The Department of the Interior supports S. 667, which designates the nearly 236,000-acre Río Grande Del Norte National Conservation Area (NCA) in northern New Mexico as well as two wilderness areas within the NCA.

Background

The proposed Río Grande del Norte NCA lies north of Taos on the border with Colorado and straddles Taos and Río Arriba Counties. The area includes the Cerro de la Olla, Cerro San Antonio and Cerro del Yuta volcanic cones jutting up from the surrounding valley—reminders of the area's turbulent geologic past. Between these mountains is the Río Grande Wild & Scenic River gorge, carving through the landscape and revealing the basalt rock beneath the surface.

The human history of the landscape is as diverse as its features. Early prehistoric sites attest to the importance of this area for hunting and as a sacred site. Today the area is home to members of the Taos Pueblo, as well as de-

scendents of both Hispanic and American settlers. Wildlife species—including bighorn sheep, deer, elk and antelope—bring both hunters and wildlife watchers, while the Río Grande and its tributaries provide blue ribbon trout fishing and other river recreation. Above it all soar the golden and bald eagles, prairie falcons, and other raptors.

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S. 667 designates nearly 236,000 acres of land administered by the Bureau of Land Management (BLM) as the Río Grande del Norte NCA. Each of the NCAs designated by Congress and managed by the BLM is unique. For the most part, however, they have certain critical elements, which include withdrawal from the public land, mining and mineral leasing laws; off-highway vehicle use limitations; and language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the NCA is established. Furthermore, NCA designations should not diminish the protections that currently apply to the lands. Section 3 of the bill honors these principles, and we support the NCA's designation.

Section 4 of S. 667 designates two wilderness areas on BLM-managed lands within the NCA—the proposed 13,420-acre Cerro del Yuta Wilderness and the 8,000-acre Río San Antonio Wilderness. Both of these areas meet the definitions of wilderness. They are largely untouched by humans, have outstanding opportunities for solitude and contain important geological, biological and scientific features—criteria outlined in the Wilderness Act of 1964. We support both of these wilderness designations as well.

Conclusion

Senator Bingaman's bill is the product of many years of discussions and collaboration with the local community, stakeholders, and other interested parties. It protects both the valuable resources of the area and the way of life in this unique area of northern New Mexico.

Thank you for the opportunity to testify in support of S. 667.

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 the bill S. 667, as ordered reported.

