

112TH CONGRESS
1ST SESSION

S. 564

To designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

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

A BILL

To designate the Valles Caldera National Preserve as a unit of the National Park System, 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 “Valles Caldera Na-
5 tional Preserve Management Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ELIGIBLE EMPLOYEE.**—The term “eligible
9 employee” means a person who was a full-time or
10 part-time employee of the Trust during the 180-day

1 period immediately preceding the date of enactment
2 of this Act.

3 (2) FUND.—The term “Fund” means the
4 Valles Caldera Fund established by section
5 106(h)(2) of the Valles Caldera Preservation Act (16
6 U.S.C. 698v-4(h)(2)).

7 (3) PRESERVE.—The term “Preserve” means
8 the Valles Caldera National Preserve in the State.

9 (4) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (5) STATE.—The term “State” means the State
12 of New Mexico.

13 (6) TRUST.—The term “Trust” means the
14 Valles Caldera Trust established by section 106(a)
15 of the Valles Caldera Preservation Act (16 U.S.C.
16 698v-4(a)).

17 **SEC. 3. VALLES CALDERA NATIONAL PRESERVE.**

18 (a) DESIGNATION AS UNIT OF THE NATIONAL PARK
19 SYSTEM.—To protect, preserve, and restore the fish, wild-
20 life, watershed, natural, scientific, scenic, geologic, his-
21 toric, cultural, archaeological, and recreational values of
22 the area, the Valles Caldera National Preserve is des-
23 ignated as a unit of the National Park System.

24 (b) MANAGEMENT.—

1 (1) APPLICABLE LAW.—The Secretary shall ad-
2 minister the Preserve in accordance with—

3 (A) this Act; and

4 (B) the laws generally applicable to units
5 of the National Park System, including—

6 (i) the National Park Service Organic
7 Act (16 U.S.C. 1 et seq.); and

8 (ii) the Act of August 21, 1935 (16
9 U.S.C. 461 et seq.).

10 (2) MANAGEMENT COORDINATION.—The Sec-
11 retary may coordinate the management and oper-
12 ations of the Preserve with the Bandelier National
13 Monument.

14 (3) MANAGEMENT PLAN.—

15 (A) IN GENERAL.—Not later than 3 fiscal
16 years after the date on which funds are made
17 available to implement this subsection, the Sec-
18 retary shall prepare a management plan for the
19 Preserve.

20 (B) APPLICABLE LAW.—The management
21 plan shall be prepared in accordance with—

22 (i) section 12(b) of Public Law 91-
23 383 (commonly known as the “National
24 Park Service General Authorities Act”)
25 (16 U.S.C. 1a-7(b)); and

1 (ii) any other applicable laws.

2 (C) CONSULTATION.—The management
3 plan shall be prepared in consultation with—

4 (i) the Secretary of Agriculture;

5 (ii) State and local governments;

6 (iii) Indian tribes and pueblos, includ-
7 ing the Pueblos of Jemez, Santa Clara,
8 and San Ildefonso; and

9 (iv) the public.

10 (c) ACQUISITION OF LAND.—

11 (1) IN GENERAL.—The Secretary may acquire
12 land and interests in land within the boundaries of
13 the Preserve by—

14 (A) purchase with donated or appropriated
15 funds;

16 (B) donation; or

17 (C) transfer from another Federal agency.

18 (2) ADMINISTRATION OF ACQUIRED LAND.—On
19 acquisition of any land or interests in land under
20 paragraph (1), the acquired land or interests in land
21 shall be administered as part of the Preserve.

22 (d) SCIENCE AND EDUCATION PROGRAM.—

23 (1) IN GENERAL.—The Secretary shall—

24 (A) until the date on which a management
25 plan is completed in accordance with subsection

1 (b)(3), carry out the science and education pro-
2 gram for the Preserve established by the Trust;
3 and

4 (B) beginning on the date on which a man-
5 agement plan is completed in accordance with
6 subsection (b)(3), establish a science and edu-
7 cation program for the Preserve that—

8 (i) allows for research and interpreta-
9 tion of the natural, historic, cultural, geo-
10 logic and other scientific features of the
11 Preserve;

12 (ii) provides for improved methods of
13 ecological restoration and science-based
14 adaptive management of the Preserve; and

15 (iii) promotes outdoor educational ex-
16 periences in the Preserve.

17 (2) SCIENCE AND EDUCATION CENTER.—As
18 part of the program established under paragraph
19 (1)(B), the Secretary may establish a science and
20 education center outside the boundaries of the Pre-
21 serve.

22 (e) GRAZING.—The Secretary may allow the grazing
23 of livestock within the Preserve to continue—

24 (1) consistent with this Act; and

1 (2) to the extent the use furthers scientific re-
2 search or interpretation of the ranching history of
3 the Preserve.

4 (f) FISH AND WILDLIFE.—Nothing in this Act af-
5 fects the responsibilities of the State with respect to fish
6 and wildlife in the State, except that the Secretary, in con-
7 sultation with the New Mexico Department of Game and
8 Fish—

9 (1) shall permit hunting and fishing on land
10 and water within the Preserve in accordance with
11 applicable Federal and State laws; and

12 (2) may designate zones in which, and establish
13 periods during which, no hunting or fishing shall be
14 permitted for reasons of public safety, administra-
15 tion, the protection of wildlife and wildlife habitats,
16 or public use and enjoyment.

17 (g) ECOLOGICAL RESTORATION.—

18 (1) IN GENERAL.—The Secretary shall under-
19 take activities to improve the health of forest, grass-
20 land, and riparian areas within the Preserve, includ-
21 ing any activities carried out in accordance with title
22 IV of the Omnibus Public Land Management Act of
23 2009 (16 U.S.C. 7301 et seq.).

24 (2) COOPERATIVE AGREEMENTS.—The Sec-
25 retary may enter into cooperative agreements with

1 adjacent pueblos to coordinate activities carried out
2 under paragraph (1) on the Preserve and adjacent
3 pueblo land.

4 (h) WITHDRAWAL.—Subject to valid existing rights,
5 all land and interests in land within the boundaries of the
6 Preserve are withdrawn from—

7 (1) entry, disposal, or appropriation under the
8 public land laws;

9 (2) location, entry, and patent under the mining
10 laws; and

11 (3) operation of the mineral leasing laws, geo-
12 thermal leasing laws, and mineral materials laws.

13 (i) VOLCANIC DOMES AND OTHER PEAKS.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (3), for the purposes of preserving the nat-
16 ural, cultural, religious, archaeological, and historic
17 resources of the volcanic domes and other peaks in
18 the Preserve described in paragraph (2) within the
19 area of the domes and peaks above 9,600 feet in ele-
20 vation or 250 feet below the top of the dome, which-
21 ever is lower—

22 (A) no roads or buildings shall be con-
23 structed; and

24 (B) no motorized access shall be allowed.

1 (2) DESCRIPTION OF VOLCANIC DOMES.—The
2 volcanic domes and other peaks referred to in para-
3 graph (1) are—

4 (A) Redondo Peak;

5 (B) Redondito;

6 (C) South Mountain;

7 (D) San Antonio Mountain;

8 (E) Cerro Seco;

9 (F) Cerro San Luis;

10 (G) Cerros Santa Rosa;

11 (H) Cerros del Abrigo;

12 (I) Cerro del Medio;

13 (J) Rabbit Mountain;

14 (K) Cerro Grande;

15 (L) Cerro Toledo;

16 (M) Indian Point;

17 (N) Sierra de los Valles; and

18 (O) Cerros de los Posos.

19 (3) EXCEPTION.—Paragraph (1) shall not
20 apply in cases in which construction or motorized ac-
21 cess is necessary for administrative purposes (includ-
22 ing ecological restoration activities or measures re-
23 quired in emergencies to protect the health and safe-
24 ty of persons in the area).

1 (j) TRADITIONAL CULTURAL AND RELIGIOUS
2 SITES.—

3 (1) IN GENERAL.—The Secretary, in consulta-
4 tion with Indian tribes and pueblos, shall ensure the
5 protection of traditional cultural and religious sites
6 in the Preserve.

7 (2) ACCESS.—The Secretary, in accordance
8 with Public Law 95–341 (commonly known as the
9 “American Indian Religious Freedom Act”) (42
10 U.S.C. 1996)—

11 (A) shall provide access to the sites de-
12 scribed in paragraph (1) by members of Indian
13 tribes or pueblos for traditional cultural and
14 customary uses; and

15 (B) may, on request of an Indian tribe or
16 pueblo, temporarily close to general public use
17 1 or more specific areas of the Preserve to pro-
18 tect traditional cultural and customary uses in
19 the area by members of the Indian tribe or
20 pueblo.

21 (3) PROHIBITION ON MOTORIZED ACCESS.—The
22 Secretary shall maintain prohibitions on the use of
23 motorized or mechanized travel on Preserve land lo-
24 cated adjacent to the Santa Clara Indian Reserva-

1 tion, to the extent the prohibition was in effect on
2 the date of enactment of this Act.

3 (k) CALDERA RIM TRAIL.—

4 (1) IN GENERAL.—Not later than 3 years after
5 the date of enactment of this Act, the Secretary, in
6 consultation with the Secretary of Agriculture, af-
7 fected Indian tribes and pueblos, and the public,
8 shall study the feasibility of establishing a hiking
9 trail along the rim of the Valles Caldera on—

10 (A) land within the Preserve; and

11 (B) National Forest System land that is
12 adjacent to the Preserve.

13 (2) AGREEMENTS.—On the request of an af-
14 fected Indian tribe or pueblo, the Secretary and the
15 Secretary of Agriculture shall seek to enter into an
16 agreement with the Indian tribe or pueblo with re-
17 spect to the Caldera Rim Trail that provides for the
18 protection of—

19 (A) cultural and religious sites in the vicin-
20 ity of the trail; and

21 (B) the privacy of adjacent pueblo land.

22 (l) VALID EXISTING RIGHTS.—Nothing in this Act
23 affects valid existing rights.

1 **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

2 (a) IN GENERAL.—Administrative jurisdiction over
3 the Preserve is transferred from the Secretary of Agri-
4 culture and the Trust to the Secretary, to be administered
5 as a unit of the National Park System, in accordance with
6 section 3.

7 (b) EXCLUSION FROM SANTA FE NATIONAL FOR-
8 EST.—The boundaries of the Santa Fe National Forest
9 are modified to exclude the Preserve.

10 (c) INTERIM MANAGEMENT.—

11 (1) MEMORANDUM OF AGREEMENT.—Not later
12 than 90 days after the date of enactment of this
13 Act, the Secretary and the Trust shall enter into a
14 memorandum of agreement to facilitate the orderly
15 transfer to the Secretary of the administration of
16 the Preserve.

17 (2) EXISTING MANAGEMENT PLANS.—Notwith-
18 standing the repeal made by section 5(a), until the
19 date on which the Secretary completes a manage-
20 ment plan for the Preserve in accordance with sec-
21 tion 3(b)(3), the Secretary may administer the Pre-
22 serve in accordance with any management activities
23 or plans adopted by the Trust under the Valles
24 Caldera Preservation Act (16 U.S.C. 698v et seq.),
25 to the extent the activities or plans are consistent
26 with section 3(b)(1).

1 (3) PUBLIC USE.—The Preserve shall remain
2 open to public use during the interim management
3 period, subject to such terms and conditions as the
4 Secretary determines to be appropriate.

5 (d) VALLES CALDERA TRUST.—

6 (1) TERMINATION.—The Trust shall terminate
7 180 days after the date of enactment of this Act un-
8 less the Secretary determines that the termination
9 date should be extended to facilitate the transitional
10 management of the Preserve.

11 (2) ASSETS AND LIABILITIES.—

12 (A) ASSETS.—On termination of the
13 Trust—

14 (i) all assets of the Trust shall be
15 transferred to the Secretary; and

16 (ii) any amounts appropriated for the
17 Trust shall remain available to the Sec-
18 retary for the administration of the Pre-
19 serve.

20 (B) ASSUMPTION OF OBLIGATIONS.—

21 (i) IN GENERAL.—On termination of
22 the Trust, the Secretary shall assume all
23 contracts, obligations, and other liabilities
24 of the Trust.

25 (ii) NEW LIABILITIES.—

1 (I) BUDGET.—Not later than 90
2 days after the date of enactment of
3 this Act, the Secretary and the Trust
4 shall prepare a budget for the interim
5 management of the Preserve.

6 (II) WRITTEN CONCURRENCE RE-
7 QUIRED.—The Trust shall not incur
8 any new liabilities not authorized in
9 the budget prepared under subclause
10 (I) without the written concurrence of
11 the Secretary.

12 (3) PERSONNEL.—

13 (A) HIRING.—The Secretary and the Sec-
14 retary of Agriculture may hire employees of the
15 Trust on a noncompetitive basis for comparable
16 positions at the Preserve or other areas or of-
17 fices under the jurisdiction of the Secretary or
18 the Secretary of Agriculture.

19 (B) SALARY.—Any employees hired from
20 the Trust under subparagraph (A) shall be sub-
21 ject to the provisions of chapter 51, and sub-
22 chapter III of chapter 53, title 5, United States
23 Code, relating to classification and General
24 Schedule pay rates.

1 (C) INTERIM RETENTION OF ELIGIBLE EM-
2 PLOYEES.—For a period of not less than 180
3 days beginning on the date of enactment of this
4 Act, all eligible employees of the Trust shall
5 be—

6 (i) retained in the employment of the
7 Trust;

8 (ii) considered to be placed on detail
9 to the Secretary; and

10 (iii) subject to the direction of the
11 Secretary.

12 (D) TERMINATION FOR CAUSE.—Nothing
13 in this paragraph precludes the termination of
14 employment of an eligible employee for cause
15 during the period described in subparagraph
16 (C).

17 (4) RECORDS.—The Secretary shall have access
18 to all records of the Trust pertaining to the manage-
19 ment of the Preserve.

20 (5) VALLES CALDERA FUND.—

21 (A) IN GENERAL.—Effective on the date of
22 enactment of this Act, the Secretary shall as-
23 sume the powers of the Trust over the Fund.

24 (B) AVAILABILITY AND USE.—Any
25 amounts in the Fund as of the date of enact-

1 ment of this Act shall be available to the Sec-
2 retary for use, without further appropriation,
3 for the management of the Preserve.

4 **SEC. 5. REPEAL OF VALLES CALDERA PRESERVATION ACT.**

5 (a) **REPEAL.**—On the termination of the Trust, the
6 Valles Caldera Preservation Act (16 U.S.C. 698v et seq.)
7 is repealed.

8 (b) **EFFECT OF REPEAL.**—Notwithstanding the re-
9 peal made by subsection (a)—

10 (1) the authority of the Secretary of Agri-
11 culture to acquire mineral interests under section
12 104(e) of the Valles Caldera Preservation Act (16
13 U.S.C. 698v–2(e)) is transferred to the Secretary
14 and any proceeding for the condemnation of, or pay-
15 ment of compensation for, an outstanding mineral
16 interest pursuant to the transferred authority shall
17 continue;

18 (2) the provisions in section 104(g) of the
19 Valles Caldera Preservation Act (16 U.S.C. 698v–
20 2(g)) relating to the Pueblo of Santa Clara shall re-
21 main in effect; and

22 (3) the Fund shall not be terminated until all
23 amounts in the Fund have been expended by the
24 Secretary.

1 (c) BOUNDARIES.—The repeal of the Valles Caldera
2 Preservation Act (16 U.S.C. 698v et seq.) shall not affect
3 the boundaries as of the date of enactment of this Act
4 (including maps and legal descriptions) of—

5 (1) the Preserve;

6 (2) the Santa Fe National Forest (other than
7 the modification made by section 4(b));

8 (3) Bandelier National Monument; and

9 (4) any land conveyed to the Pueblo of Santa
10 Clara.

11 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as are necessary to carry out this Act.

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