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SENATE

{ REPORT  
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### VALLES CALDERA NATIONAL PRESERVE MANAGEMENT ACT

SEPTEMBER 27, 2010.—Ordered to be printed

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

### R E P O R T

[To accompany S. 3452]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 3452) to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Valles Caldera National Preserve Management Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **ELIGIBLE EMPLOYEE.**—The term “eligible employee” means a person who was a full-time or part-time employee of the Trust during the 180-day period immediately preceding the date of enactment of this Act.

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

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

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

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

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

#### SEC. 3. VALLES CALDERA NATIONAL PRESERVE.

(a) **DESIGNATION AS UNIT OF THE NATIONAL PARK SYSTEM.**—To protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area, the Valles Caldera National Preserve is designated as a unit of the National Park System.

- (b) **MANAGEMENT.**—
- (1) **APPLICABLE LAW.**—The Secretary shall administer the Preserve in accordance with—
    - (A) this Act; and
    - (B) the laws generally applicable to units of the National Park System, including—
      - (i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and
      - (ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).
  - (2) **MANAGEMENT COORDINATION.**—The Secretary may coordinate the management and operations of the Preserve with the Bandelier National Monument.
  - (3) **MANAGEMENT PLAN.**—
    - (A) **IN GENERAL.**—Not later than 3 fiscal years after the date on which funds are made available to implement this subsection, the Secretary shall prepare a management plan for the Preserve.
    - (B) **APPLICABLE LAW.**—The management plan shall be prepared in accordance with—
      - (i) section 12(b) of Public Law 91–383 (commonly known as the “National Park Service General Authorities Act”) (16 U.S.C. 1a–7(b)); and
      - (ii) any other applicable laws.
    - (C) **CONSULTATION.**—The management plan shall be prepared in consultation with—
      - (i) the Secretary of Agriculture;
      - (ii) State and local governments;
      - (iii) Indian tribes and pueblos, including the Pueblos of Jemez, Santa Clara, and San Ildefonso; and
      - (iv) the public.
- (c) **ACQUISITION OF LAND.**—
- (1) **IN GENERAL.**—The Secretary may acquire land and interests in land within the boundaries of the Preserve by—
    - (A) purchase with donated or appropriated funds;
    - (B) donation; or
    - (C) transfer from another Federal agency.
  - (2) **ADMINISTRATION OF ACQUIRED LAND.**—On acquisition of any land or interests in land under paragraph (1), the acquired land or interests in land shall be administered as part of the Preserve.
- (d) **SCIENCE AND EDUCATION PROGRAM.**—
- (1) **IN GENERAL.**—The Secretary shall—
    - (A) until the date on which a management plan is completed in accordance with subsection (b)(3), carry out the science and education program for the Preserve established by the Trust; and
    - (B) beginning on the date on which a management plan is completed in accordance with subsection (b)(3), establish a science and education program for the Preserve that—
      - (i) allows for research and interpretation of the natural, historic, cultural, geologic and other scientific features of the Preserve;
      - (ii) provides for improved methods of ecological restoration and science-based adaptive management of the Preserve; and
      - (iii) promotes outdoor educational experiences in the Preserve.
  - (2) **SCIENCE AND EDUCATION CENTER.**—As part of the program established under paragraph (1)(B), the Secretary may establish a science and education center outside the boundaries of the Preserve.
- (e) **GRAZING.**—The Secretary may allow the grazing of livestock within the Preserve to continue—
- (1) consistent with this Act; and
  - (2) to the extent the use furthers scientific research or interpretation of the ranching history of the Preserve.
- (f) **FISH AND WILDLIFE.**—Nothing in this Act affects the responsibilities of the State with respect to fish and wildlife in the State, except that the Secretary, in consultation with the New Mexico Department of Game and Fish—
- (1) shall permit hunting and fishing on land and water within the Preserve in accordance with applicable Federal and State laws; and
  - (2) may designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, the protection of wildlife and wildlife habitats, or public use and enjoyment.
- (g) **ECOLOGICAL RESTORATION.**—
- (1) **IN GENERAL.**—The Secretary shall undertake activities to improve the health of forest, grassland, and riparian areas within the Preserve, including

any activities carried out in accordance with title IV of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7301 et seq.).

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with adjacent pueblos to coordinate activities carried out under paragraph (1) on the Preserve and adjacent pueblo land.

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

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

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

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

(i) VOLCANIC DOMES AND OTHER PEAKS.—

(1) IN GENERAL.—Except as provided in paragraph (3), for the purposes of preserving the natural, cultural, religious, archaeological, and historic resources of the volcanic domes and other peaks in the Preserve described in paragraph (2) within the area of the domes and peaks above 9,600 feet in elevation or 250 feet below the top of the dome, whichever is lower—

(A) no roads or buildings shall be constructed; and

(B) no motorized access shall be allowed.

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

(A) Redondo Peak;

(B) Redondito;

(C) South Mountain;

(D) San Antonio Mountain;

(E) Cerro Seco;

(F) Cerro San Luis;

(G) Cerros Santa Rosa;

(H) Cerros del Abrigo;

(I) Cerro del Medio;

(J) Rabbit Mountain;

(K) Cerro Grande;

(L) Cerro Toledo;

(M) Indian Point;

(N) Sierra de los Valles; and

(O) Cerros de los Posos.

(3) EXCEPTION.—Paragraph (1) shall not apply in cases in which construction or motorized access is necessary for administrative purposes (including ecological restoration activities or measures required in emergencies to protect the health and safety of persons in the area).

(j) TRADITIONAL CULTURAL AND RELIGIOUS SITES.—

(1) IN GENERAL.—The Secretary, in consultation with Indian tribes and pueblos, shall ensure the protection of traditional cultural and religious sites in the Preserve.

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

(A) shall provide access to the sites described in paragraph (1) by members of Indian tribes or pueblos for traditional cultural and customary uses; and

(B) may, on request of an Indian tribe or pueblo, temporarily close to general public use 1 or more specific areas of the Preserve to protect traditional cultural and customary uses in the area by members of the Indian tribe or pueblo.

(3) PROHIBITION ON MOTORIZED ACCESS.—The Secretary shall maintain prohibitions on the use of motorized or mechanized travel on Preserve land located adjacent to the Santa Clara Indian Reservation, to the extent the prohibition was in effect on the date of enactment of this Act.

(k) CALDERA RIM TRAIL.—

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

(A) land within the Preserve; and

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

(2) AGREEMENTS.—On the request of an affected Indian tribe or pueblo, the Secretary and the Secretary of Agriculture shall seek to enter into an agreement with the Indian tribe or pueblo with respect to the Caldera Rim Trail that provides for the protection of—

- (A) cultural and religious sites in the vicinity of the trail; and
- (B) the privacy of adjacent pueblo land.

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

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

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

(b) EXCLUSION FROM SANTA FE NATIONAL FOREST.—The boundaries of the Santa Fe National Forest are modified to exclude the Preserve.

(c) INTERIM MANAGEMENT.—

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

(2) EXISTING MANAGEMENT PLANS.—Notwithstanding the repeal made by section 5(a), until the date on which the Secretary completes a management plan for the Preserve in accordance with section 3(b)(3), the Secretary may administer the Preserve in accordance with any management activities or plans adopted by the Trust under the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.), to the extent the activities or plans are consistent with section 3(b)(1).

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

(d) VALLES CALDERA TRUST.—

(1) TERMINATION.—The Trust shall terminate 180 days after the date of enactment of this Act unless the Secretary determines that the termination date should be extended to facilitate the transitional management of the Preserve.

(2) ASSETS AND LIABILITIES.—

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

- (i) all assets of the Trust shall be transferred to the Secretary; and
- (ii) any amounts appropriated for the Trust shall remain available to the Secretary for the administration of the Preserve.

(B) ASSUMPTION OF OBLIGATIONS.—

- (i) IN GENERAL.—On termination of the Trust, the Secretary shall assume all contracts, obligations, and other liabilities of the Trust.
- (ii) NEW LIABILITIES.—

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

(II) WRITTEN CONCURRENCE REQUIRED.—The Trust shall not incur any new liabilities not authorized in the budget prepared under subclause (I) without the written concurrence of the Secretary.

(3) PERSONNEL.—

(A) HIRING.—The Secretary and the Secretary of Agriculture may hire employees of the Trust on a noncompetitive basis for comparable positions at the Preserve or other areas or offices under the jurisdiction of the Secretary or the Secretary of Agriculture.

(B) SALARY.—Any employees hired from the Trust under subparagraph (A) shall be subject to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(C) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—For a period of not less than 180 days beginning on the date of enactment of this Act, all eligible employees of the Trust shall be—

- (i) retained in the employment of the Trust;
- (ii) considered to be placed on detail to the Secretary; and
- (iii) subject to the direction of the Secretary.

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

(4) RECORDS.—The Secretary shall have access to all records of the Trust pertaining to the management of the Preserve.

(5) VALLES CALDERA FUND.—

(A) IN GENERAL.—Effective on the date of enactment of this Act, the Secretary shall assume the powers of the Trust over the Fund.

(B) AVAILABILITY AND USE.—Any amounts in the Fund as of the date of enactment of this Act shall be available to the Secretary for use, without further appropriation, for the management of the Preserve.

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

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

(b) EFFECT OF REPEAL.—Notwithstanding the repeal made by subsection (a)—

(1) the authority of the Secretary of Agriculture to acquire mineral interests under section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is transferred to the Secretary and any proceeding for the condemnation of, or payment of compensation for, an outstanding mineral interest pursuant to the transferred authority shall continue;

(2) the provisions in section 104(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(g)) relating to the Pueblo of Santa Clara shall remain in effect; and

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

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

(1) the Preserve;

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

(3) Bandelier National Monument; and

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

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

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

**PURPOSE**

The purpose of S. 3452 is to transfer administrative jurisdiction over the Valles Caldera National Preserve from the Valles Caldera Trust to the National Park Service to administer as a unit of the National Park System.

**BACKGROUND AND NEED**

The Valles Caldera in northern New Mexico is one of only three supervolcanoes in the United States and one of six in the world. The Valles Caldera is the oldest of the three supervolcanoes (having formed 1.25 million years ago), and it also is the smallest. Yet the caldera rim spans more than 100,000 acres, and the eruption created a volcanic ash plume that stretched from northern Utah to central Kansas. The Valles Caldera has been thoroughly studied, and it provides an excellent opportunity for both experts and the public to learn about large volcanic eruptions and their impacts on surrounding landscapes while experiencing one of the world's best examples of an intact resurgent caldera.

The Valles Caldera's expansive grassland valleys, meandering headwaters of the Jemez River, and forested mountains offer outstanding scenery and provide habitat to a variety of wildlife including peregrine falcons and bald eagles, trout, and a 3,000-strong elk herd. In 1975, the Valles Caldera received formal recognition as an outstanding and nationally significant geologic resource when it was designated a National Natural Landmark.

In 2000, Congress passed the Valles Caldera Preservation Act (Public Law 106–248; 16 U.S.C. 698v et seq.), which authorized the United States to acquire the Valles Caldera from its private owners. The legislation provided for the establishment of the Valles Caldera National Preserve (Preserve) and provided for it to be ad-

ministered by the Valles Caldera Trust (Trust). The Trust operates under an experimental management framework in which a Presidentially appointed Board of Trustees manages the Preserve to protect and preserve the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve, and to provide for the use of its renewable resources. The legislation also directed the Trust to prepare a budget with a goal of becoming financially self-sustaining by 2015.

The Valles Caldera Preservation Act also provided that the Trust would terminate at the end of the twentieth full fiscal year following acquisition of the Baca ranch. The law further provided that “in the event of termination of the Trust, the Secretary [of Agriculture] shall assume all management and administrative functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.” Upon passage of the Act, the Federal government acquired the property for approximately \$100 million.

In the ten years since the establishment of the Preserve, there have been concerns that the management framework is not working and has resulted in limited public access. For example, in Fiscal Year 2009, the 89,000-acre Preserve received 15,581 visitors compared to 212,544 visitors at the adjacent 34,000-acre Bandelier National Monument, which is administered by the National Park Service.

In October of 2009, the Government Accountability Office released a report (GAO-1084) stating that the Preserve was at least five years behind schedule in the development of an effective management control system and that the goal of becoming financially self-sustaining by 2015 remained the Trust’s biggest challenge and would be difficult to achieve. The report noted that a recent revenue enhancement study commissioned by the Valles Caldera Trust estimated the need for at least \$21 million for infrastructure improvements to support greater public access. In addition, the report stated that the Trust had failed to establish key elements of an effective management program, including that it lacked a strategic plan and had not met the requirements for performance planning, monitoring, or reporting as required by the Government Performance and Results Act.

In December 2009, the National Park Service completed a reconnaissance study at the request of Senators Bingaman and Tom Udall. The study, which updated the Park Service’s 1979 feasibility study regarding the designation of the Valles Caldera as a unit of the National Park System, found that the Valles Caldera possesses nationally significant geologic resources and meets the suitability and feasibility requirements necessary for inclusion in the National Park System.

#### LEGISLATIVE HISTORY

S. 3452 was introduced on May 27, 2010, by Senators Bingaman and Udall of New Mexico. On June 30, 2010, the Committee on Energy and Natural Resources held a hearing on the bill. At its business meeting on August 5, 2010, the Committee on Energy and Natural Resources ordered S. 3452 favorably reported with an amendment in the nature of a substitute.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on August 5, 2010, by voice vote of a quorum present, recommends that the Senate pass S. 3452, if amended as described herein.

## COMMITTEE AMENDMENT

During the consideration of S. 3452, the Committee adopted an amendment in the nature of a substitute. The amendment makes several changes to clarify and improve the transition and subsequent management of the Valles Caldera National Preserve to the National Park Service. Among those changes, the amendment modifies the definition of an eligible employee of the Valles Caldera Trust to clarify which employees the provisions of the bill addressing transition issues applies to; adds restoration as a purpose of the designation of the National Preserve as a unit of the National Park System; clarifies provisions related to the coordination of management with Bandelier National Monument; expands the goals of the science and education program; and removes a provision limiting livestock grazing within the Preserve to specified areas.

The amendment adds a provision directing the Secretary of the Interior to undertake ecological restoration activities to improve the health of forest, grassland, and riparian areas within the Preserve. The amendment also modifies the provision in the bill establishing elevation limits on development and motorized access restrictions on the volcanic domes and other peaks within the Preserve to be consistent with ongoing environmental analyses regarding public access and use.

Finally, the amendment includes a requirement that the Preserve remain open to the public during the interim management period, clarifies the effect of the repeal of the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) with regard to geographic boundaries, mineral interests, and provisions relating to the Pueblo of Santa Clara, and makes other minor clarifying, technical, and conforming changes.

The amendment is explained in detail in the section-by-section analysis below.

## SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title: the “Valles Caldera National Preserve Management Act”.

*Section 2* defines key terms used in the bill.

*Section 3(a)* designates the 89,000-acre Preserve as a unit of the National Park System to protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area.

Subsection (b) directs the Secretary of the Interior (“Secretary”) to manage the Preserve in accordance with the provisions of the bill and the laws generally applicable to units of the National Park System and authorizes the Secretary to coordinate management and operations of the Preserve with Bandelier National Monument. It also requires the Secretary to prepare a management plan with-

in 3 years of the date that funds are made available to the Secretary to administer the Preserve.

Subsection (c) authorizes the Secretary to acquire land and interests in land within the boundaries of the Preserve to be managed as part of the Preserve.

Subsection (d) directs the Secretary to carry out the existing science and education program established by the Trust until the Secretary completes the management plan for the Preserve, at which time it directs the Secretary to establish a science and education program that allows for research and interpretation, provides for improved methods of ecological restoration and science-based adaptive management, and promotes outdoor educational experiences in the Preserve. The Secretary is authorized to establish a science and education center outside of the boundaries of the Preserve.

Subsection (e) authorizes the Secretary to permit the grazing of livestock in the Preserve to the extent that it is consistent with the purposes and other provisions of the bill and that it furthers scientific research or interpretation of the ranching history of the Preserve.

Subsection (f) states that nothing in the Act affects the responsibilities of the State of New Mexico over fish and wildlife and directs the Secretary to permit hunting and fishing on the Preserve except in designated zones in which, and during periods when, no hunting or fishing is permitted for reasons of public safety, administration, protection of wildlife and wildlife habitats, or public use and enjoyment.

Subsection (g) requires the Secretary to undertake activities to improve the ecosystem health of the Preserve, including through any activities carried out in accordance with title IV of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7301 et seq.), commonly known as the Forest Landscape Restoration Act. The Committee notes that on August 13, 2010, the Secretary of Agriculture announced the selection of the Southwest Jemez Mountains landscape restoration project (a portion of which will take place within the Preserve) for long-term funding through the Forest Landscape Restoration Act. This provision, in concert with the other provisions of the bill, clarifies that the project can continue under National Park Service management in accordance with the Forest Landscape Restoration Act without interruption. The particular restoration project is consistent with the requirements of that Act whether or not the Preserve remains a part of the National Forest System or becomes part of the National Park System. The subsection also authorizes the Secretary to enter into cooperative agreements with adjacent pueblos to coordinate restoration activities on the Preserve and adjacent pueblo land.

Subsection (h) withdraws, subject to valid existing rights, all land within the boundaries of the Preserve from disposal and mineral development.

Subsection (i) expands restrictions on motorized access and the construction of roads and buildings on the volcanic domes and other peaks within the Preserve above 9,600 feet or 250 feet below the top of the dome (whichever is lower), except as necessary for administrative purposes.

Subsection (j) requires the Secretary, in consultation with Indian tribes and pueblos, to ensure the protection of traditional cultural and religious sites in the Preserve. As provided by the American Indian Religious Freedom Act, this subsection also requires the Secretary to provide members of Indian tribes and pueblos access to these sites for traditional cultural and customary uses and authorizes the Secretary to temporarily close areas of the Preserve to the general public in order to protect traditional cultural and customary uses by members of Indian tribes and pueblos. In addition, the subsection directs the Secretary to continue restrictions on motorized use in the Preserve adjacent to the Santa Clara Indian Reservation.

Subsection (k) directs the Secretary to study the feasibility of establishing a hiking trail along the rim of the Valles Caldera.

Subsection (l) clarifies that nothing in the bill affects valid existing rights.

*Section 4(a)* transfers administrative jurisdiction over the Preserve from the Secretary of Agriculture and the Valles Caldera Trust to the Secretary, to be administered as a unit of the National Park System.

Subsection (b) modifies the boundaries of the Santa Fe National Forest to exclude the Preserve.

Subsection (c) directs the Secretary and the Trust to enter into a memorandum of agreement to facilitate the orderly transfer of the management of the Preserve and generally authorizes the Secretary to continue existing management activities and use plans adopted by the Trust until a new management plan is completed. It also generally requires that the Preserve remain open to public use during the interim management period.

Subsection (d)(1) terminates the Trust 180 days after the date of enactment of the bill unless the Secretary extends the termination date to facilitate the transitional management of the Preserve.

Paragraph (2) transfers—upon the termination of the Trust—all assets, appropriated funds, contracts, obligations, and liabilities of the Trust to the Secretary; directs the Secretary and Trust to jointly develop a budget for the interim management of the Preserve; and provides that any liabilities incurred by the Trust after the date of enactment of the bill must be authorized by that budget or with the written concurrence of the Secretary.

Paragraph (3) authorizes the Secretary and Secretary of Agriculture to hire employees of the Trust on a non-competitive basis. It also provides that certain employees of the Trust are to be retained in employment unless terminated for-cause, and are to be considered to be placed on detail to, and subject to the direction of, the Secretary.

Paragraph (4) provides that the Secretary shall have access to all records of the Trust pertaining to the management of the Preserve.

Paragraph (5) gives the Secretary the powers of the Trust over the Valles Caldera Fund and provides that amounts in the Fund shall be available to the Secretary, without further appropriation, beginning on the date of enactment of the bill.

*Section 5(a)* repeals the Valles Caldera Preservation Act upon termination of the Trust.

Subsection (b) provides that, notwithstanding the repeal, certain authority of the Secretary of Agriculture to acquire mineral inter-

ests in the Preserve are transferred to the Secretary and any proceedings to do so shall continue, certain provisions relating to the Pueblo of Santa Clara shall remain in effect, and the Valles Caldera Fund shall not be terminated until all amounts in the Fund have been expended by the Secretary.

Subsection (c) clarifies that the repeal does not affect the existing boundaries of the Preserve, Bandelier National Monument, any land conveyed to the Pueblo of Santa Clara, or the Santa Fe National Forest (with the exception of the modification made by section 4(b)).

*Section 6* authorizes the appropriation of such sums as are necessary.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 3452—Valles Caldera National Preserve Management Act*

S. 3452 would transfer administrative jurisdiction of the Valles Caldera Preserve in New Mexico from the Forest Service to the National Park Service (NPS). Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3452 would increase discretionary spending by \$16 million over the 2011–2015 period and by \$16 million over the following five years. Enacting the legislation would not affect revenues and would have no net effect on direct spending; therefore, pay-as-you-go procedures do not apply.

S. 3452 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.

Under S. 3452, the Valles Caldera National Preserve would become a unit of the National Park System rather than the National Forest System. The preserve would then be managed by the NPS rather than the Valles Caldera Trust—a wholly owned, government-sponsored corporation. (The 89,000-acre preserve was established in 2000.) Assets and liabilities of the Valles Caldera Trust Fund would transfer to the NPS along with authority to spend amounts in the trust fund without appropriation. Under the bill, the NPS could continue to allow grazing on preserve lands as well as hunting, fishing, and other recreational activities.

As required by the bill, the agency would complete various required management plans and feasibility studies for the preserve over the next three years, including plans to develop the preserve, acquire 40 acres of private land in the area, and operate the preserve's science and education center. Finally, land within the preserve would be withdrawn from commercial purposes such as mining.

Based on information provided by the Forest Service and the NPS, CBO estimates that the discretionary costs of administering the preserve would increase by about \$1 million annually (from the current level of just under \$4 million). The additional funding would be used initially for required management planning and studies and later to improve routine operations and maintenance. In addition, CBO estimates that \$22 million would be spent over

the next 10 years to develop facilities for maintenance, administrative, and recreation purposes.

CBO expects that offsetting receipts and associated direct spending under the bill would be about that same as under current law. The NPS would collect receipts currently collected by the trust (primarily from recreation fees earning less than \$1 million annually) and would spend such amounts to benefit the preserve. The spending of balances in the Valles Caldera Trust Fund, if any, would also be unchanged. Finally, we estimate that withdrawing land within the preserve from commercial activities such as mining would not reduce offsetting receipts because that land is not expected to generate any such amounts.

The CBO staff contact for this estimate is Deborah Reis. 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. 3452.

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. 3452.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 3452, as 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 views of the Department of the Interior, Department of Agriculture, and Valles Caldera Trust were included in testimony received by the Committee at the June 30, 2010, hearing on S. 3452, which is printed below:

##### STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 3452, to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes.

The Department supports the protection of the nationally significant natural and cultural resources found at the Valles Caldera National Preserve. We would like to work with the committee to determine the management structure that will provide the highest level of protection and

care for the unique resources that are found within the Valles Caldera.

S. 3452 would designate the Valles Caldera National Preserve (Preserve), in New Mexico as a unit of the National Park System, transferring administrative jurisdiction of the Preserve to the Secretary of the Interior (Secretary). The bill would repeal the Valles Caldera Preservation Act and all assets and liabilities of the Valles Caldera Trust (Trust) would be transferred to the Secretary. The bill would also authorize the Secretary to coordinate management and operations of the Preserve with Bandelier National Monument. If S. 3452 is enacted, we look forward to working with the Trust to develop a management plan and capitalize on the proximity of Bandelier National Monument for efficiency of operations, while applying Service First principles of sharing resources as appropriate with the surrounding National Forest.

S. 3452 would authorize grazing, hunting, and fishing to continue within the Preserve and the bill would require the Secretary to ensure the protection of traditional cultural and religious sites including providing tribal access to the sites and temporarily closing specific areas of the Preserve to protect traditional uses. The National Park Service (NPS) has a long history of consultation with First Americans in the preservation and continuation of traditional practices.

Finally, S. 3452 would require that eligible Trust employees be retained for at least 180 days from the date of enactment and the Secretary and the Secretary of Agriculture would be authorized to hire Trust employees on a noncompetitive basis for comparable positions at the Preserve or other units of the National Park or National Forest Systems in New Mexico.

The Valles Caldera National Preserve is an 88,900 acre unit of the National Forest System located in the Jemez Mountains of north central New Mexico. The Preserve was established by Public Law 106-248, the Valles Caldera Preservation Act of 2000, and is managed by the Valles Caldera Trust, a wholly owned government corporation established under the Act. The Trust is charged with mixing elements of both private and public administration while working to achieve resource protection, public enjoyment, and financial self sufficiency goals.

The Valles Caldera is considered to be one of the world's best intact examples of a resurgent caldera (the remains of a huge and ancient volcano with a prominent uplift at its center, in this case present-day Redondo Peak) and is of sufficient size and configuration to allow for long-term sustainable resource protection and visitor enjoyment. The geologic features of the Preserve retain a high degree of integrity and the Preserve's unique setting of expansive grasslands and montane forests provides outstanding scenic values and an array of opportunities for public recreation, reflection, education, and scientific study.

The national significance of the geological resources of the Valles Caldera was formally recognized in 1975 when the area was designated a National Natural Landmark. Additionally, the Valles Caldera was the subject of site investigations and new area studies that were completed by the National Park Service (NPS) in 1939, 1964, 1977, and 1979. An *Update Report on the NPS 1979 New Area Study* was completed by NPS in December of 2009 at the request of Senators Bingaman and Tom Udall. All of these NPS studies found that the Valles Caldera was nationally significant, suitable and feasible for designation as a unit of the National Park System, and the 2009 Update Report reaffirmed the results of the prior studies. In addition, the Forest Service, pursuant to Public Law 101-556, also completed a study of the site in 1993, which was cited in the Valles Caldera Preservation Act.

If added to the National Park System, Valles Caldera would be managed in accordance with the 1916 Organic Act and other Acts that have guided the NPS for nearly one hundred years “to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations”, with recognition that the bill allows for continued, sustainable grazing, hunting, and fishing. The NPS has experience with these activities in our other nineteen preserves.

Based on current expenses for Valles Caldera and the cost to operate park units comparable in size and assets, we anticipate the annual cost to operate and manage the park would be approximately \$22 million for developmental costs and \$4 million for annual operational costs, although more complete cost estimates would be developed through the general management plan. In addition, our 2009 Update Report identifies 5 parcels of private property, totaling 40 acres, that would need to be acquired. Although appraisals have not been completed, the expected costs to acquire this private property and any transfer costs are expected to be minimal. Funds would be subject to the availability of appropriations and NPS priorities.

Furthermore, as noted above, this bill would repeal the Valles Caldera Preservation Act in which Congress authorized the acquisition of a fractional mineral interest under the Valles Caldera Preserve. We have been advised by the Department of Justice that although the condemnation action related to the mineral interest has concluded, the judgment and some fees have not yet been paid. Accordingly, we believe that the bill should state explicitly that it is not intended to affect the authority for the condemnation or the amount or source of any outstanding obligations of the United States related to the condemnation of the fractional mineral interest under the Preserve.

Finally, should S. 3452 move forward in its current form, the Department would like the opportunity to work with the committee to discuss some of the time periods that are outlined in the bill. We are concerned that the 30 day time periods to develop the memorandum of agree-

ment described in Section 3 and the interim budget in Section 4 may not be sufficient. We will be happy to work with committee staff to address our concerns.

The Valles Caldera is a spectacular landscape containing nationally significant resources that are worthy of preservation and protection. We look forward to working with the committee, the U.S. Forest Service, and the Valles Caldera Trust to determine the best way to care for these resources and to allow for their enjoyment by all Americans.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions that you or any other members of the Committee may have.

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STATEMENT OF HARRIS SHERMAN, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. Chairman, Ranking Member Murkowski, and members of the Committee:

Thank you for the opportunity to provide the Administration's view of S. 3452 the "Valles Caldera Preserve Management Act".

I am pleased to testify today on S. 3452 regarding the long-term management of the Valles Caldera National Preserve, one of the Nation's preeminent scenic and natural areas. The Valles Caldera Preserve Management Act would repeal the Valles Caldera Preservation Act of 2000 (2000 Act) abolish the Valles Caldera Trust, terminate the Preserve's inclusion in the National Forest System and turn over administration of the land to the National Park Service (NPS). This legislation gives us the opportunity to assess the long term management of the Preserve. The Department supports the protection of the nationally significant natural and cultural resources found at the Valles Caldera National Preserve and have worked with the Trust to accomplish these goals over the past several years. We would like to work with the committee to determine the management structure that will provide the highest level of protection and care for the unique resources that are found within the Valles Caldera. However, given the historical and ecological importance of these lands and the work that is required to restore them, there are various jurisdictional options for the long-term management of the Valles Caldera National Preserve that could be considered.

There is no debate about the outstanding natural resources of the 88,900-acre Preserve with its extraordinary flora, fauna, water, and geologic resources. Its spectacular scenic values are among the finest in the National Forest System. Geologically, the Valles Caldera is one of the Nation's best examples of a resurgent caldera. Its archaeological and cultural resources are of major significance to Native American Pueblo people. The challenge before the Congress and the Administration is how best to manage

and restore the forested and rangeland watersheds, while sustaining the traditional uses of a working ranch and the majesty of a National Preserve for the Nation.

#### ROLE OF THE FOREST SERVICE

To assess appropriate future management, some history may be helpful. In 2000, at the hearings for the original Valles Caldera Preservation Act, the Forest Service was complimented as the “unsung heroes” in the great effort to preserve and protect what was then referred to as the Baca Ranch. That accolade is as valid today as it was ten years ago. Beginning in 1990, the Forest Service engaged the ranch owners, the Dunigan family, in what turned out to be a decade long effort to acquire the Baca Ranch. In 1993, the Forest Service cooperating with interested parties including the National Park Service, the U. S. Fish and Wildlife Service and affected Indian tribes completed a major study, the Report on the Study of the Baca Location No. 1 which provided the scientific and public policy underpinnings for Federal acquisition of the Ranch in 2000 (PL 106–248). From 1995 to 2000, the Secretary of Agriculture assigned resource managers and used Department of Agriculture legal expertise to negotiate the purchase of the Baca Ranch for \$101 million. The acquisition of the Baca Location No. 1 by the Federal government also resulted in the expansion of the Bandelier National Monument in the upper watershed of Alamo Creek as authorized by Public Law 105–376. The acquisition of the Preserve also permitted the Secretary of Agriculture to assign to the Pueblo of Santa Clara rights to acquire at fair market value approximately 5,045 acres of the northeast corner of the Baca Location No. 1 in the Santa Clara Creek watershed to promote watershed management within the Santa Clara Indian Reservation. More recently, significant effort and expense has been invested in acquiring privately owned geothermal rights. With some exceptions, the Administration can report today that due to the efforts of the Forest Service and the Department of Justice, the Federal government is now in possession of title to the Preserve and the land is permanently protected from private development.

#### ADDITION TO THE NATIONAL FOREST SYSTEM—VALLES CALDERA NATIONAL PRESERVE

Upon the enactment of the 2000 Act on July 25, 2000, the Valles Caldera National Preserve was added to the National Forest System and the boundary of the Santa Fe National Forest was adjusted to include the National Preserve. Hailed as a new experiment in public, multiple-use land management, the nearly 89,000 acre National Preserve, formerly known as the Baca Location No. 1, was assigned to a nine-member Board of Trustees responsible for the protection and development of the Valles Caldera National Preserve. The President of the United States appoints seven members and two Federal employees, who are

ex-officio members who serve by virtue of their positions as Forest Supervisor of the Santa Fe National Forest and Superintendent of the Bandelier National Monument. The Trust is the managing board for the National Forest System lands that comprise the Valles Caldera National Preserve. The Preserve employees report to an Executive Director, who is overseen by the Trust Board members. Funding for the Preserve comes from the annual Forest Service appropriation, which is \$3.5 million for FY 10 and from revenues generated by the Preserve for entry and use. In fiscal year 2009 the Trust generated approximately \$650,000.

Because the Valles Caldera National Preserve is part of the National Forest System, it has the ability to draw upon the considerable resources of the Forest Service. The Deputy Areas for National Forest Systems, Research and Development and State and Private Forestry, as well as Business Operations support and assist the Trust, and Preserve managers with services and expertise needed to manage the Preserve. The Southwest Region and the Rocky Mountain Research Station support the Preserve managers through special assignments; such as on-the-ground consultations and specific disciplinary investigations or services. Santa Fe National Forest and Cibola National Forest employees with a wide array of skills are within a short driving distance of the Preserve and are available for immediate consultation on management direction or service program delivery. Wildland fire suppression and management resources, including equipment and personnel, are directly provided to the Preserve as part of the Santa Fe National Forest mission. Over the last decade, the Forest Service has worked closely with the Trust to assist with National Preserve operations, including archaeology, forestry, law enforcement, infrastructure, technical assistance, resource management and wildfire suppression. The Forest Service also provides the Trust with administrative assistance in financial services and property management.

#### MAINTAINING A WORKING RANCH, WHILE MANAGING A NATIONAL PRESERVE

The debate a decade ago was over how to best manage the newly acquired Baca Ranch. The consensus then was that the land should be preserved as a working ranch where fishing, hunting, grazing, and some limited timber management might be retained. Then Congressman Udall noted in the hearings in March, 2000, that a working ranch would permit both cattle and wildlife to thrive on the land and traditional New Mexican families should have the opportunity to join others who had previously been able to use the land. The concept of a working ranch was widely endorsed. Over the past decade the Trust, with the assistance of the Forest Service, has implemented the concept of the working ranch.

The October 2009 report “Valles Caldera” by the Government Accountability Office found that the Trust had made progress in rehabilitating roads, buildings, fences, and other infrastructure, had created a science program, experimented with a variety of grazing options, taken steps to manage its forests, expanded recreational opportunities, and taken its first steps toward becoming financially self-sustaining. However the Trust is at least 5 years behind the schedule it set for itself. Through FY2009, the Trust lacked a strategic plan and annual performance plans and it had not systematically monitored or reported on its’ progress. The Trust’s financial management has also been weak and the Trust is challenged to become self sustaining by the end of FY2015. The GAO recommended that the Trust work with the relevant Committees to seek legislative remedies as appropriate for the legal challenges confronting the Trust.

#### FOREST AND RANGELAND RESTORATION

It is important to note that restoration and resource management issues are already being managed by the Forest Service on approximately 895,000 acres of National Forest System lands in the Jemez Mountains surrounding the Preserve and on the Preserve’s Southeast corner adjacent to Bandelier National Monument. The connectivity of the forests, rangelands and waters in the Jemez Mountains of central and northern New Mexico allows for the continuity of natural resource management and for efficient restoration practices to be implemented on a landscape scale. The Forest Service is well positioned to provide landscape and restoration management in the Jemez Mountains, as envisioned by the Administration’s priorities for maintaining and enhancing the resiliency and productivity of America’s forests.

The paramount priority for the Preserve is to continue and increase watershed restoration work across the Preserve and the surrounding National Forest System lands. The land’s long history as a ranch where timber and mining activities occurred degraded much of the landscape. In addition, drought and insect activity threatens the forest and makes catastrophic fire a major challenge. Restoration work in this regard has been initiated and environmental and watershed assessments for developing future restoration projects are in process.

Some of this restoration work has and will continue to deal with roads. When the Baca Ranch was purchased there were approximately 1,400 miles of logging roads on the land. Initially, it was determined that the existing road system and surface design could not be used to support recreational opportunities, administration and management or uses such as grazing.

To date, approximately 875 miles of the 1,400 have been inventoried and once the inventory is completed a determination would be made on the number of miles of road required for management of the Preserve. Through forest

restoration efforts, the existing roads that are unneeded for future management would then be closed, decommissioned or obliterated. Presently, the Trust, with the assistance of the Forest Service, has upgraded over 18 miles of road to all-weather gravel standards so they are usable for passenger vehicles and are more environmentally stable. To enhance safety and public viewing of the preserve, the kiosks, scenic turnouts, and a new gate have been installed. In addition, the entry to and exit from New Mexico Highway 4, the main access road to the preserve, has been reconfigured to meet traffic and road safety requirements.

Rehabilitating deteriorating infrastructure such as buildings, roads and water systems has proven to be an expensive and time-consuming endeavor. Many of these obligations will need to be addressed in any future management regime for the Preserve.

#### APPROACHES TO GRAZING MANAGEMENT

Given that the 2000 Act requires maintaining the Preserve as a working ranch, grazing has been a central activity. Over the years, the grazing program's objectives, scope, and size have changed repeatedly, in response to annual scientific assessments of forage availability, as well as shifting directives from the Board. The ultimate goal is to manage the Preserve's livestock operations for multiple aims, including, environmental benefits, local community benefit, research, and public education.

#### THE DEVELOPMENT AND EXPANSION OF RECREATIONAL OPPORTUNITIES

For the public, especially New Mexicans, the Baca Location No.1 was an intriguing curiosity. Projected on maps as a prominent rectangle of white surrounded by National Forest System lands and on the Preserve's Southeast corner adjacent to Bandelier National Monument, there were great expectations by the Public for recreating and exploring the new National Preserve. At the outset of Forest Service and Trust management, the National Preserve was closed to public entry. Beginning in 2002, the Preserve was opened to public recreation which was confined to guided hikes or van tours. Over the next several years, access to the Preserve for varied summer and winter activities was allowed, including but not limited to access for fishing, hunting, hiking and various other recreational activities provided by outfitters and guides such as horse drawn wagon and sleigh rides, stargazing and viewing, group tours and birding.

Given the successful history of Forest Service efforts, its commitment to the Preserve and the National Forest System stewardship of the vast majority of lands surrounding the Preserve, management by the Forest Service is a viable option for the Preserve's future. There is ample national precedent for Forest Service administration of such lands. The agency currently manages 38 Congressionally designated areas, including 21 National Recreation Areas,

6 National Monuments (2 of which are national volcanic monuments), and 11 National Scenic Areas. For example the Santa Fe National Forest is managing the 57,000 acre Jemez National Recreation Area established to conserve the recreational, ecological, cultural, religious and wildlife values of the Jemez Mountains.

The Preserve presents many resource management challenges that must be addressed and accounted for if any change in management is considered. The largest elk herd in New Mexico has to be carefully managed in cooperation with the New Mexico Department of Game and Fish. The land needs to be restored after decades of grazing and logging use. Indeed, for the Secretary of Agriculture, restoration of forest and rangeland watersheds is one of the highest management priorities. Under the Forest Landscape Restoration Title of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303), which established the Collaborative Forest Landscape Restoration Fund (CFLRF), the Valles Caldera National Preserve, Santa Fe National Forest, the Nature Conservancy and the New Mexico Forest and Watershed Restoration Institute have developed a proposal for a cross jurisdictional planning process to implement a landscape-scale forest restoration strategy in the Jemez River Watershed. A key collaborator for this proposal, among many, is Bandelier National Monument. To achieve the goals of restoration and resiliency under the CFLRF active management prescriptions utilizing timber and forest vegetation harvesting and removal, prescribed fire, road closures and obliteration, as well as controlled livestock herbivory, would be required to achieve restored and resilient forest and watershed ecological conditions. However, under the CFLRF, funding is limited to lands administered by the Forest Service.

CONGRESSIONAL REQUEST FOR RECONNAISSANCE STUDY BY  
THE NATIONAL PARK SERVICE

At the request of New Mexico Senators Jeff Bingaman and Tom Udall (June 24, 2009), the National Park Service performed a reconnaissance study of the National Forest System lands comprising the Valles Caldera National Preserve for its inclusion in the National Park System. We recognize that the Secretary of the Interior could also be an appropriate steward of the National Preserve and the Forest Service will work cooperatively with all parties to achieve the best outcome for the National Preserve.

If it is the decision of the Committee that permanent Trust management of the Preserve is not in the public interest and the land is ultimately managed by the Park Service, the Forest Service or some other arrangement, then we would request a thorough and orderly transfer of responsibilities from the Trust. In the interim, we should assure adequate funding for continued operations. In that respect, I note the Administration is recommending continued funding of the Trust at \$3.5 million for FY 2011.

This bill would repeal the Valles Caldera Preservation Act (VCPA), in which Congress authorized the acquisition of a fractional mineral interest under the Valles Caldera Preserve. Although the condemnation action related to the mineral interest has concluded, the judgment and some fees have not yet been paid. Accordingly, we believe that the bill should state explicitly that it is not intended to affect the authority for the condemnation or the amount or source of any outstanding obligations of the United States related to the condemnation of the fractional mineral interest under the Preserve.

In closing, I would note that the spirit of cooperation would be paramount for all agencies to work together for the thoughtful stewardship of the Valles Caldera National Preserve, regardless of the Congresses' decisions regarding administrative jurisdiction.

This concludes my testimony, and I would be happy to answer any questions.

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STATEMENT OF STEPHEN E. HENRY, CHAIRMAN, THE BOARD OF TRUSTEES, VALLES CALDERA TRUST

Mr. Chairman and Members of the Committee:

I am Stephen Henry, Chairman of the Board of Trustees for the Valles Caldera Trust, and I am here on behalf of the Presidentially appointed members of the Board of Trustees to express our views about S. 3452. The Trust supports the protection of the nationally significant natural and cultural resources found at the Valles Caldera National Preserve.

I will not belabor the wonderful scenic and natural values of the Valles Caldera National Preserve. Everyone here knows it is a national treasure. We at the Trust value that treasure, and we have devoted our best efforts to its preservation and protection. But, unfortunately, we inherited an abused treasure. The former Baca Ranch had been over grazed and over logged for decades. Hundreds of miles of roads cover the area. Geothermal developers were threatening to develop private mineral rights. Major roads and improvements were in need of repair and rehabilitation. Infrastructure necessary to accommodate public access and use was almost nonexistent and prerequisite environmental compliances had never been addressed. At the same time, the public clamored to use and enjoy this land for which the Federal taxpayer paid \$101 million.

Today, I am here to report that the Preserve is well on the way to a comeback. With the assistance of our partners in the Forest Service, the universities and the public, significant strides have been made at landscape restoration. The mandates of the Valles Caldera Preservation Act of 2000 are steadily and successfully being accomplished with regard to wildlife management, forest and range management, public recreation, Native American religious and cultural uses, research, science and many others. Despite these successes, S. 3452 would terminate the Valles

Caldera Trust. We are disappointed and concerned, particularly about the future of our employees and the many successful ongoing programs.

We note that the Valles Caldera Preservation Act provides for the assessment of the future viability of the Trust. In section 110, the Act calls for providing recommendations to Congress after 18 years as to whether the Trust should continue. In that context, we believe that S. 3452, which assumes Park Service management is best for the Preserve, could benefit from further analysis of the possible viable options for long term management of the Preserve. However, the relative merits of administration by the Forest Service, Park Service and the Trust have never been analyzed.

When viewed objectively, we believe the Trust's accomplishments will be evident. The Trust started at ground zero when it was established in 2000. We had a brand new organization implementing an untested management regime on a huge property. The Preserve has not been financially self-sustaining; however, the challenge of that goal was recognized by many at the time of the original enactment. The Preserve has limited revenue generating capacity. Further, back in 2000, neither the Congress nor the Executive Branch anticipated the costs and complications of setting up a government corporation or the costs of making necessary capital repairs and rehabilitation, and simply the costs of operations—all of which are debits in the accounting on self sustainability. Parts of the problem were inherent challenges in the enabling legislation. One simple example concerns tort liability. Instead of treating the Trust like any other self insured federal agency, we were compelled to spend considerable sums buying private liability insurance. The point is that the Trust is being held to a unique standard of financial self sustainability. The Board believes that terminating the Trust fails to recognize much of the progress and investments in time and money made by the Trust in the past eight years.

Turning the discussion to the future, the issue is what management is needed and who can best provide it. It may be that management by the Forest Service or the Park Service will enable some administrative functions to be assumed within a larger organization, but many activities and operations will have to be done anyway and at probably much the same cost.

Forest restoration is now the major management focus. It involves putting roads to bed, erosion control, reforestation, and dealing with the challenges posed by insects and climate change. Range management is another challenge and includes restoration of riparian areas. We are currently undertaking extensive research in grassland improvement in cooperation with New Mexico State University. Public recreation, including hunting and fishing, is always a major challenge, but we have been getting high marks on these issues from our visitors.

In conclusion, we understand there will be a need to assess the long term management of the Preserve and want to play our part in that effort. We believe any changes should be considered with full public transparency and with input from resource management experts. This exquisite landscape and the American public deserve no less.

Thank you and I would be happy to answer any questions the Committee would have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 3452, as ordered reported, are shown below (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman). The Committee notes that section 5(b) of S. 3452, as ordered reported, provides that certain authorities and actions shall continue and certain provisions shall remain in effect notwithstanding the repeal of the Valles Caldera Preservation Act, as explained in detail in the section-by-section analysis above.

#### VALLES CALDERA PRESERVATION ACT

(Title I of Public Law 106–248, as amended by Public Law 106–132)

(16 U.S.C. 698v–698v–10)

AN ACT To authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes.

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

### **[TITLE I—VALLES CALDERA NATIONAL PRESERVE AND TRUST**

#### **[SEC. 101. SHORT TITLE.**

**[**This title may be cited as the “Valles Caldera Preservation Act”.

#### **[SEC. 102. FINDINGS AND PURPOSES.**

**[(a) FINDINGS.—**Congress finds that—

**[(1)** the Baca ranch comprises most of the Valles Caldera in central New Mexico, and constitutes a unique land mass, with significant scientific, cultural, historic, recreational, ecological, wildlife, fisheries, and productive values;

**[(2)** the Valles Caldera is a large resurgent lava dome with potential geothermal activity;

**[(3)** the land comprising the Baca ranch was originally granted to the heirs of Don Luis Maria Cabeza de Vaca in 1860;

**[(4)** historical evidence, in the form of old logging camps and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;

[(5) the careful husbandry of the Baca ranch by the current owners, including selective timbering, limited grazing and hunting, and the use of prescribed fire, have preserved a mix of healthy range and timber land with significant species diversity, thereby serving as a model for sustainable land development and use;

[(6) the Baca ranch's natural beauty and abundant resources, and its proximity to large municipal populations, could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting;

[(7) the Forest Service documented the scenic and natural values of the Baca ranch in its 1993 study entitled "Report on the Study of the Baca Location No. 1, Santa Fe National Forest, New Mexico", as directed by Public Law 101-556;

[(8) the Baca ranch can be protected for current and future generations by continued operation as a working ranch under a unique management regime which would protect the land and resource values of the property and surrounding ecosystem while allowing and providing for the ranch to eventually become financially self-sustaining;

[(9) the current owners have indicated that they wish to sell the Baca ranch, creating an opportunity for Federal acquisition and public access and enjoyment of these lands;

[(10) certain features on the Baca ranch have historical and religious significance to Native Americans which can be preserved and protected through Federal acquisition of the property;

[(11) the unique nature of the Valles Caldera and the potential uses of its resources with different resulting impacts warrants a management regime uniquely capable of developing an operational program for appropriate preservation and development of the land and resources of the Baca ranch in the interest of the public;

[(12) an experimental management regime should be provided by the establishment of a Trust capable of using new methods of public land management that may prove to be cost-effective and environmentally sensitive; and

[(13) the Secretary may promote more efficient management of the Valles Caldera and the watershed of the Santa Clara Creek through the assignment of purchase rights of such watershed to the Pueblo of Santa Clara.

[(b) PURPOSES.—The purposes of this title are—

[(1) to authorize Federal acquisition of the Baca ranch;

[(2) to protect and preserve for future generations the scientific, scenic, historic, and natural values of the Baca ranch, including rivers and ecosystems and archaeological, geological, and cultural resources;

[(3) to provide opportunities for public recreation;

[(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates elements of public and private administration in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

[(5) to provide for sustained yield management of Baca ranch for timber production and domesticated livestock grazing insofar as is consistent with the other purposes stated herein.

**[SEC. 103. DEFINITIONS.**

[In this title:

[(1) BACA RANCH.—The term “Baca ranch” means the lands and facilities described in section 104(a).

[(2) BOARD OF TRUSTEES.—The terms “Board of Trustees” and “Board” mean the Board of Trustees as described in section 107.

[(3) COMMITTEES OF CONGRESS.—The term “Committees of Congress” means the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

[(4) FINANCIALLY SELF-SUSTAINING.—The term “financially self-sustaining” means management and operating expenditures equal to or less than proceeds derived from fees and other receipts for resource use and development and interest on invested funds. Management and operating expenditures shall include Trustee expenses, salaries and benefits of staff, administrative and operating expenses, improvements to and maintenance of lands and facilities of the Preserve, and other similar expenses. Funds appropriated to the Trust by Congress, either directly or through the Secretary, for the purposes of this title shall not be considered.

[(5) MULTIPLE USE AND SUSTAINED YIELD.—The term “multiple use and sustained yield” has the combined meaning of the terms “multiple use” and “sustained yield of the several products and services”, as defined under the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 531).

[(6) PRESERVE.—The term “Preserve” means the Valles Caldera National Preserve established under section 105.

[(7) SECRETARY.—Except where otherwise provided, the term “Secretary” means the Secretary of Agriculture.

[(8) TRUST.—The term “Trust” means the Valles Caldera Trust established under section 106.

**[SEC. 104. ACQUISITION OF LANDS.**

[(a) ACQUISITION OF BACA RANCH.—

[(1) IN GENERAL.—In compliance with the Act of June 15, 1926 (16 U.S.C. 471a), the Secretary is authorized to acquire all or part of the rights, title, and interests in and to approximately 94,761 acres of the Baca ranch, comprising the lands, facilities, and structures referred to as the Baca Location No. 1, and generally depicted on a plat entitled “Independent Resurvey of the Baca Location No. 1”, made by L.A. Osterhoudt, W.V. Hall, and Charles W. Devendorf, U.S. Cadastral Engineers, June 30, 1920–August 24, 1921, under special instructions for Group No. 107 dated February 12, 1920, in New Mexico.

[(2) SOURCE OF FUNDS.—The acquisition under paragraph (1) may be made by purchase through appropriated or donated funds, by exchange, by contribution, or by donation of land. Funds appropriated to the Secretary from the Land and Water Conservation Fund shall be available for this purpose.

[(3) BASIS OF SALE.—The acquisition under paragraph (1) shall be based on an appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and—

[(A) in the case of purchase, such purchase shall be on a willing seller basis for no more than the fair market value of the land or interests therein acquired; and

[(B) in the case of exchange, such exchange shall be for lands, or interests therein, of equal value, in conformity with the existing exchange authorities of the Secretary.

[(4) DEED.—The conveyance of the offered lands to the United States under this subsection shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General.

[(b) ADDITION OF LAND TO BANDELIER NATIONAL MONUMENT.—Upon acquisition of the Baca ranch under subsection (a), the Secretary of the Interior shall assume administrative jurisdiction over those lands within the boundaries of the Bandelier National Monument as modified under section 3 of Public Law 105–376 (112 Stat. 3389).

[(c) PLAT AND MAPS.—

[(1) PLAT AND MAPS PREVAIL.—In case of any conflict between a plat or a map and acreages, the plat or map shall prevail.

[(2) MINOR CORRECTIONS.—The Secretary and the Secretary of the Interior may make minor corrections in the boundaries of the Upper Alamo watershed as depicted on the map referred to in section 3 of Public Law 105–376 (112 Stat. 3389).

[(3) BOUNDARY MODIFICATION.—Upon the conveyance of any lands to any entity other than the Secretary, the boundary of the Preserve shall be modified to exclude such lands.

[(4) FINAL MAPS.—Within 180 days of the date of acquisition of the Baca ranch under subsection (a), the Secretary and the Secretary of the Interior shall submit to the Committees of Congress a final map of the Preserve and a final map of Bandelier National Monument, respectively.

[(5) PUBLIC AVAILABILITY.—The plat and maps referred to in the subsection shall be kept and made available for public inspection in the offices of the Chief, Forest Service, and Director, National Park Service, in Washington, D.C., and Supervisor, Santa Fe National Forest, and Superintendent, Bandelier National Monument, in the State of New Mexico.

[(d) WATERSHED MANAGEMENT REPORT.—The Secretary, acting through the Forest Service, in cooperation with the Secretary of the Interior, acting through the National Park Service, shall—

[(1) prepare a report of management alternatives which may—

[(A) provide more coordinated land management within the area known as the upper watersheds of Alamo, Capulin, Medio, and Sanchez Canyons, including the areas known as the Dome Diversity Unit and the Dome Wilderness;

[(B) allow for improved management of elk and other wildlife populations ranging between the Santa Fe National Forest and the Bandelier National Monument; and

- [(C) include proposed boundary adjustments between the Santa Fe National Forest and the Bandelier National Monument to facilitate the objectives under subparagraphs (A) and (B); and
- [(2) submit the report to the Committees of Congress within 120 days of the date of enactment of this title.
- [(e) OUTSTANDING MINERAL INTERESTS.—
- [(1) IN GENERAL.—The acquisition of the Baca ranch by the Secretary shall be subject to all outstanding valid existing mineral interests.
- [(2) ACQUISITION.—The Secretary is authorized and directed to negotiate with the owners of any fractional interest in the subsurface estate for the acquisition of such fractional interest for not to exceed its fair market value, as determined by appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.
- [(3) ADMINISTRATION.—Any such interests acquired within the boundaries of the Upper Alamo watershed, as referred to in subsection (b), shall be administered by the Secretary of the Interior as part of Bandelier National Monument.
- [(4) AVAILABLE FUNDS.—Any such interests shall be acquired with available funds.
- [(5) DECLARATION OF TAKING.—
- [(A) IN GENERAL.—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.
- [(B) SOURCE OF FUNDS.—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code.
- [(f) BOUNDARIES OF THE BACA RANCH.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Baca ranch shall be treated as if they were National Forest boundaries existing as of January 1, 1965.
- [(g) PUEBLO OF SANTA CLARA.—
- [(1) IN GENERAL.—The Secretary may assign to the Pueblo of Santa Clara rights to acquire for fair market value portions of the Baca ranch. The portion that may be assigned shall be determined by mutual agreement between the Pueblo and the Secretary based on optimal management considerations for the Preserve including manageable land line locations, public access, and retention of scenic and natural values. All appraisals shall be done in conformity with the Uniform Appraisal Standards for Federal Land Acquisition.
- [(2) STATUS OF LAND ACQUIRED.—As of the date of acquisition, the fee title lands, and any mineral estate underlying such lands, acquired under this subsection by the Pueblo of Santa Clara are deemed transferred into trust in the name of the United States for the benefit of the Pueblo of Santa Clara and such lands and mineral estate are declared to be part of the existing Santa Clara Indian Reservation.

[(3) MINERAL ESTATE.—Any mineral estate acquired by the United States pursuant to section 104(e) underlying fee title lands acquired by the Pueblo of Santa Clara shall not be developed without the consent of the Secretary of the Interior and the Pueblo of Santa Clara.

[(4) SAVINGS.—Any reservations, easements, and covenants contained in an assignment agreement entered into under paragraph (1) shall not be affected by the acquisition of the Baca ranch by the United States, the assumption of management by the Valles Caldera Trust, or the lands acquired by the Pueblo being taken into trust.

**[SEC. 105. THE VALLES CALDERA NATIONAL PRESERVE.**

[(a) ESTABLISHMENT.—Upon the date of acquisition of the Baca ranch under section 104(a), there is hereby established the Valles Caldera National Preserve as a unit of the National Forest System which shall include all Federal lands and interests in land acquired under sections 104(a) and 104(e), except those lands and interests in land administered or held in trust by the Secretary of the Interior under sections 104(b) and 104(g), and shall be managed in accordance with the purposes and requirements of this title.

[(b) PURPOSES.—The purposes for which the Preserve is established are to protect and preserve the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve, and to provide for multiple use and sustained yield of renewable resources within the Preserve, consistent with this title.

[(c) MANAGEMENT AUTHORITY.—Except for the powers of the Secretary enumerated in this title, the Preserve shall be managed by the Valles Caldera Trust established by section 106.

[(d) ELIGIBILITY FOR PAYMENT IN LIEU OF TAXES.—Lands acquired by the United States under section 104(a) shall constitute entitlement lands for purposes of the Payment in Lieu of Taxes Act (31 U.S.C. 6901–6904).

[(e) WITHDRAWALS.—

[(1) IN GENERAL.—Upon acquisition of all interests in minerals within the boundaries of the Baca ranch under section 104(e), subject to valid existing rights, the lands comprising the Preserve are thereby withdrawn from disposition under all laws pertaining to mineral leasing, including geothermal leasing.

[(2) MATERIALS FOR ROADS AND FACILITIES.—Nothing in this title shall preclude the Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, from allowing the utilization of common varieties of mineral materials such as sand, stone, and gravel as necessary for construction and maintenance of roads and facilities within the Preserve.

[(f) FISH AND GAME.—Nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping within the Preserve, except that the Trust may, in consultation with the Secretary and the State of New Mexico, designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, ad-

ministration, the protection of nongame species and their habitats, or public use and enjoyment.

[(g) REDONDO PEAK.—

[(1) IN GENERAL.—For the purposes of preserving the natural, cultural, religious, and historic resources on Redondo Peak upon acquisition of the Baca ranch under section 104(a), except as provided in paragraph (2), within the area of Redondo Peak above 10,000 feet in elevation—

[(A) no roads, structures, or facilities shall be constructed; and

[(B) no motorized access shall be allowed.

[(2) EXCEPTIONS.—Nothing in this subsection shall preclude—

[(A) the use and maintenance of roads and trails existing as of the date of enactment of this Act;

[(B) the construction, use and maintenance of new trails, and the relocation of existing roads, if located to avoid Native American religious and cultural sites; and

[(C) motorized access necessary to administer the area by the Trust (including measures required in emergencies involving the health or safety of persons within the area).

**[SEC. 106. THE VALLES CALDERA TRUST.**

[(a) ESTABLISHMENT.—There is hereby established a wholly owned government corporation known as the Valles Caldera Trust which is empowered to conduct business in the State of New Mexico and elsewhere in the United States in furtherance of its corporate purposes.

[(b) CORPORATE PURPOSES.—The purposes of the Trust are—

[(1) to provide management and administrative services for the Preserve;

[(2) to establish and implement management policies which will best achieve the purposes and requirements of this title;

[(3) to receive and collect funds from private and public sources and to make dispositions in support of the management and administration of the Preserve; and

[(4) to cooperate with Federal, State, and local governmental units, and with Indian tribes and Pueblos, to further the purposes for which the Preserve was established.

[(c) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

[(d) STAFF.—

[(1) IN GENERAL.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates. No employee of the Trust shall be paid at a rate in excess of that payable to the Supervisor of the Santa Fe National Forest or the Superintendent of the Bandelier National Monument, whichever is greater.

[(2) FEDERAL EMPLOYEES.—

[(A) IN GENERAL.—Except as provided in this title, employees of the Trust shall be Federal employees as defined by title 5, United States Code, and shall be subject to all rights and obligations applicable thereto.

[(B) USE OF FEDERAL EMPLOYEES.—At the request of the Trust, the employees of any Federal agency may be provided for implementation of this title. Such employees detailed to the Trust for more than 30 days shall be provided on a reimbursable basis.

[(e) GOVERNMENT CORPORATION.—

[(1) IN GENERAL.—The Trust shall be a Government Corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

[(2) REPORTS.—Not later than January 15 of each year, the Trust shall submit to the Secretary and the Committees of Congress a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year including information on the status of ecological, cultural, and financial resources being managed by the Trust, and benefits provided by the Preserve to local communities. The report shall also include a section that describes the Trust's goals for the current year.

[(3) ANNUAL BUDGET.—

[(A) IN GENERAL.—The Trust shall prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the date of acquisition of the Baca ranch under section 104(a).

[(B) BUDGET REQUEST.—The Secretary shall provide necessary assistance (including detailees as necessary) to the Trust for the timely formulation and submission of the annual budget request for appropriations, as authorized under section 111(a), to support the administration, operation, and maintenance of the Preserve.

[(f) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of New Mexico, and its political subdivisions including the counties of Sandoval and Rio Arriba.

[(g) DONATIONS.—The members of the Board of Trustees, the executive director, and one additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purposes of carrying out its duties. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may accept donations from such entities notwithstanding that such donors may conduct business with the Department of Agriculture or any other department or agency of the United States.

[(h) PROCEEDS.—

[(1) IN GENERAL.—Notwithstanding sections 1341 and 3302 of title 31 of the United States Code, all monies received from donations under subsection (g), from claims, judgments, or set-

tlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999, or from the management of the Preserve shall be retained and shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair, and related expenses incurred with respect to properties under its management jurisdiction.

[(2) FUND.—There is hereby established in the Treasury of the United States a special interest bearing fund entitled “Valles Caldera Fund” which shall be available, without further appropriation for any purpose consistent with the purposes of this title. At the option of the Trust, or the Secretary in accordance with section 110, the Secretary of the Treasury shall invest excess monies of the Trust in such account, which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

[(i) RESTRICTIONS ON DISPOSITION OF RECEIPTS.—Any funds received by the Trust, or the Secretary in accordance with section 109(b), from the management of the Preserve shall not be subject to partial distribution to the State under—

[(1) the Act of May 23, 1908, entitled “an Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine” (35 Stat. 260, chapter 192; 16 U.S.C. 500);

[(2) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500); or

[(3) any other law.

[(j) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. For purposes of such suits, the residence of the Trust shall be the State of New Mexico. The Trust shall be represented by the Attorney General in any litigation arising out of the activities of the Trust, except that the Trust may retain private attorneys to provide advice and counsel.

[(k) BYLAWS.—The Trust shall adopt necessary bylaws to govern its activities.

[(l) INSURANCE AND BOND.—The Trust shall require that all holders of leases from, or parties in contract with, the Trust that are authorized to occupy, use, or develop properties under the management jurisdiction of the Trust, procure proper insurance against any loss in connection with such properties, or activities authorized in such lease or contract, as is reasonable and customary.

[(m) NAME AND INSIGNIA.—The Trust shall have the sole and exclusive right to use the words “Valles Caldera Trust”, and any seal, emblem, or other insignia adopted by the Board of Trustees. Without express written authority of the Trust, no person may use the words “Valles Caldera Trust” as the name under which that person shall do or purport to do business, for the purpose of trade, or by way of advertisement, or in any manner that may falsely suggest any connection with the Trust.

#### **[SEC. 107. BOARD OF TRUSTEES.**

[(a) IN GENERAL.—The Trust shall be governed by a 9-member Board of Trustees consisting of the following:

[(1) VOTING TRUSTEES.—The voting Trustees shall be—

- [(A) the Supervisor of the Santa Fe National Forest, United States Forest Service;
- [(B) the Superintendent of the Bandelier National Monument, National Park Service; and
- [(C) seven individuals, appointed by the President, in consultation with the congressional delegation from the State of New Mexico. The seven individuals shall have specific expertise or represent an organization or government entity as follows—
- [(i) one trustee shall have expertise in aspects of domesticated livestock management, production, and marketing, including range management and livestock business management;
- [(ii) one trustee shall have expertise in the management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities;
- [(iii) one trustee shall have expertise in the sustainable management of forest lands for commodity and noncommodity purposes;
- [(iv) one trustee shall be active in a nonprofit conservation organization concerned with the activities of the Forest Service;
- [(v) one trustee shall have expertise in financial management, budget and program analysis, and small business operations;
- [(vi) one trustee shall have expertise in the cultural and natural history of the region; and
- [(vii) one trustee shall be active in State or local government in New Mexico, with expertise in the customs of the local area.
- [(2) QUALIFICATIONS.—Of the trustees appointed by the President—
- [(A) none shall be employees of the Federal Government; and
- [(B) at least five shall be residents of the State of New Mexico.
- [(b) INITIAL APPOINTMENTS.—The President shall make the initial appointments to the Board of Trustees within 90 days after acquisition of the Baca ranch under section 104(a).
- [(c) TERMS.—
- [(1) IN GENERAL.—Appointed trustees shall each serve a term of 4 years, except that of the trustees first appointed, four shall serve for a term of 4 years, and three shall serve for a term of 2 years.
- [(2) VACANCIES.—Any vacancy among the appointed trustees shall be filled in the same manner in which the original appointment was made, and any trustee appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed.
- [(3) LIMITATIONS.—No appointed trustee may serve more than 8 years in consecutive terms.
- [(d) QUORUM.—A majority of trustees shall constitute a quorum of the Board for the conduct of business.
- [(e) ORGANIZATION AND COMPENSATION.—

[(1) IN GENERAL.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the activities of the Trust.

[(2) COMPENSATION OF TRUSTEES.—Except as provided in paragraph (3), trustees shall serve without pay, but may be reimbursed from the funds of the Trust for the actual and necessary travel and subsistence expenses incurred by them in the performance of their duties.

[(3) CHAIR.—

[(A) SELECTION.—Trustees shall select a chair from the membership of the Board.

[(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

[(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

[(f) LIABILITY OF TRUSTEES.—Appointed trustees shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act, the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

[(g) MEETINGS.—

[(1) LOCATION AND TIMING OF MEETINGS.—The Board shall meet in sessions open to the public at least three times per year in New Mexico. Upon a majority vote made in open session, and a public statement of the reasons therefore, the Board may close any other meetings to the public: *Provided*, That any final decision of the Board to adopt or amend the comprehensive management program under section 108(d) or to approve any activity related to the management of the land or resources of the Preserve shall be made in open public session.

[(2) PUBLIC INFORMATION.—In addition to other requirements of applicable law, the Board shall establish procedures for providing appropriate public information and periodic opportunities for public comment regarding the management of the Preserve.

**[SEC. 108. RESOURCE MANAGEMENT.**

[(a) ASSUMPTION OF MANAGEMENT.—The Trust shall assume all authority provided by this title to manage the Preserve upon a determination by the Secretary, which to the maximum extent practicable shall be made within 60 days after the appointment of the Board, that—

[(1) the Board is duly appointed, and able to conduct business; and

[(2) provision has been made for essential management services.

[(b) MANAGEMENT RESPONSIBILITIES.—Upon assumption of management of the Preserve under subsection (a), the Trust shall manage the land and resources of the Preserve and the use thereof including, but not limited to such activities as—

[(1) administration of the operations of the Preserve;

[(2) preservation and development of the land and resources of the Preserve;

[(3) interpretation of the Preserve and its history for the public;

[(4) management of public use and occupancy of the Preserve; and

[(5) maintenance, rehabilitation, repair, and improvement of property within the Preserve.

[(c) AUTHORITIES.—

[(1) IN GENERAL.—The Trust shall develop programs and activities at the Preserve, and shall have the authority to negotiate directly and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including without limitation, entities of Federal, State, and local governments, and consultation with Indian tribes and Pueblos, as are necessary and appropriate to carry out its authorized activities or fulfill the purposes of this title. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

[(2) PROCEDURES.—The Trust shall establish procedures for entering into lease agreements and other agreements for the use and occupancy of facilities of the Preserve. The procedures shall ensure reasonable competition, and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

[(3) LIMITATIONS.—

[(A) IN GENERAL.—The Trust may not dispose of any real property in, or convey any water rights appurtenant to the Preserve.

[(B) MAXIMUM DURATION.—The Trust may not convey any easement, or enter into any contract, lease, or other agreement related to use and occupancy of property within the Preserve for a period greater than 10 years.

[(C) TERMINATION.—The easement, contract, lease, or other agreement shall provide that, upon termination of the Trust, such easement, contract, lease or agreement is terminated.

[(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.

[(4) APPLICATION OF PROCUREMENT LAWS.—

[(A) IN GENERAL.—Notwithstanding any other provision of law, Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal Government contracts governing health and safety requirements, wage rates, and civil rights.

[(B) PROCEDURES.—The Trust, in consultation with the Administrator of Federal Procurement Policy, Office of Management and Budget, shall establish and adopt procedures applicable to the Trust's procurement of goods and services, including the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

[(d) MANAGEMENT PROGRAM.—Within two years after assumption of management responsibilities for the Preserve, the Trust shall, in accordance with subsection (f), develop a comprehensive program for the management of lands, resources, and facilities within the Preserve to carry out the purposes under section 105(b). To the extent consistent with such purposes, such program shall provide for—

[(1) operation of the Preserve as a working ranch, consistent with paragraphs (2) through (4);

[(2) the protection and preservation of the scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural and recreational values of the Preserve;

[(3) multiple use and sustained yield of renewable resources within the Preserve;

[(4) public use of and access to the Preserve for recreation;

[(5) renewable resource utilization and management alternatives that, to the extent practicable—

[(A) benefit local communities and small businesses;

[(B) enhance coordination of management objectives with those on surrounding National Forest System land; and

[(C) provide cost savings to the Trust through the exchange of services, including but not limited to labor and maintenance of facilities, for resources or services provided by the Trust; and

[(6) optimizing the generation of income based on existing market conditions, to the extent that it does not unreasonably diminish the long-term scenic and natural values of the area, or the multiple use and sustained yield capability of the land.

[(e) PUBLIC USE AND RECREATION.—

[(1) IN GENERAL.—The Trust shall give thorough consideration to the provision of appropriate opportunities for public use and recreation that are consistent with the other purposes under section 105(b). The Trust is expressly authorized to construct and upgrade roads and bridges, and provide other facilities for activities including, but not limited to camping and picnicking, hiking, and cross country skiing. Roads, trails, bridges, and recreational facilities constructed within the Preserve shall meet public safety standards applicable to units of the National Forest System and the State of New Mexico.

[(2) FEES.—Notwithstanding any other provision of law, the Trust is authorized to assess reasonable fees for admission to, and the use and occupancy of, the Preserve: *Provided*, That admission fees and any fees assessed for recreational activities shall be implemented only after public notice and a period of not less than 60 days for public comment.

[(3) PUBLIC ACCESS.—Upon the acquisition of the Baca ranch under section 104(a), and after an interim planning period of

no more than two years, the public shall have reasonable access to the Preserve for recreation purposes. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may reasonably limit the number and types of recreational admissions to the Preserve, or any part thereof, based on the capability of the land, resources, and facilities. The use of reservation or lottery systems is expressly authorized to implement this paragraph.

**[(f) APPLICABLE LAWS.**

**[(1) IN GENERAL.—**The Trust, and the Secretary in accordance with section 109(b), shall administer the Preserve in conformity with this title and all laws pertaining to the National Forest System, except the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.).

**[(2) ENVIRONMENTAL LAWS.—**The Trust shall be deemed a Federal agency for the purposes of compliance with Federal environmental laws.

**[(3) CRIMINAL LAWS.—**All criminal laws relating to Federal property shall apply to the same extent as on adjacent units of the National Forest System.

**[(4) REPORTS ON APPLICABLE RULES AND REGULATIONS.—**The Trust may submit to the Secretary and the Committees of Congress a compilation of applicable rules and regulations which in the view of the Trust are inappropriate, incompatible with this title, or unduly burdensome.

**[(5) CONSULTATION WITH TRIBES AND PUEBLOS.—**The Trust is authorized and directed to cooperate and consult with Indian tribes and Pueblos on management policies and practices for the Preserve which may affect them. The Trust is authorized to allow the use of lands within the Preserve for religious and cultural uses by Native Americans and, in so doing, may set aside places and times of exclusive use consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996 (note)) and other applicable statutes.

**[(6) NO ADMINISTRATIVE APPEAL.—**The administrative appeals regulations of the Secretary shall not apply to activities of the Trust and decisions of the Board.

**[(g) LAW ENFORCEMENT AND FIRE MANAGEMENT.—**

**[(1) LAW ENFORCEMENT.—**

**[(A) IN GENERAL.—**The Secretary shall provide law enforcement services under a cooperative agreement with the Trust to the extent generally authorized in other units of the National Forest System.

**[(B) FEDERAL AGENCY.—**The Trust shall be deemed a Federal agency for purposes of the law enforcement authorities of the Secretary (within the meaning of section 15008 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559g)).

**[(2) FIRE MANAGEMENT.—**

**[(A) NON-REIMBURSABLE SERVICES.—**

**[(i) DEVELOPMENT OF PLAN.—**Subject to the availability of appropriations under section 111(a), the Secretary shall, in consultation with the Trust, develop a

plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

[(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

[(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

[(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System and subject to the availability of appropriations under section 111(a), the Secretary may provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.

**[(SEC. 109. AUTHORITIES OF THE SECRETARY.]**

[(a) IN GENERAL.—Notwithstanding the assumption of management of the Preserve by the Trust, the Secretary is authorized to—

[(1) issue any rights-of-way, as defined in the Federal Land Policy and Management Act of 1976, of over 10 years duration, in cooperation with the Trust, including, but not limited to, road and utility rights-of-way, and communication sites;

[(2) issue orders under and enforce prohibitions generally applicable on other units of the National Forest System, in cooperation with the Trust;

[(3) exercise the authorities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1278, et seq.) and the Federal Power Act (16 U.S.C. 797, et seq.), in cooperation with the Trust;

[(4) acquire the mineral rights referred to in section 104(e);

[(5) provide law enforcement and fire management services under section 108(g);

[(6) at the request of the Trust, exchange land or interests in land within the Preserve under laws generally applicable to other units of the National Forest System, or otherwise dispose of land or interests in land within the Preserve under Public Law 97-465 (16 U.S.C. 521c through 521i);

[(7) in consultation with the Trust, refer civil and criminal cases pertaining to the Preserve to the Department of Justice for prosecution;

[(8) retain title to and control over fossils and archaeological artifacts found within the Preserve;

[(9) at the request of the Trust, construct and operate a visitors' center in or near the Preserve, subject to the availability of appropriated funds;

[(10) conduct the assessment of the Trust's performance, and, if the Secretary determines it necessary, recommend to Congress the termination of the Trust, under section 110(b)(2); and

[(11) conduct such other activities for which express authorization is provided to the Secretary by this title.

[(b) INTERIM MANAGEMENT.—

[(1) IN GENERAL.—The Secretary shall manage the Preserve in accordance with this title during the interim period from the date of acquisition of the Baca ranch under section 104(a) to the date of assumption of management of the Preserve by the Trust under section 108. The Secretary may enter into any agreement, lease, contract, or other arrangement on the same basis as the Trust under section 108(c)(1): *Provided*, That any agreement, lease, contract, or other arrangement entered into by the Secretary shall not exceed two years in duration unless expressly extended by the Trust upon its assumption of management of the Preserve.

[(2) USE OF THE FUND.—All monies received by the Secretary from the management of the Preserve during the interim period under paragraph (1) shall be deposited into the “Valles Caldera Fund” established under section 106(h)(2), and such monies in the fund shall be available to the Secretary, without further appropriation, for the purpose of managing the Preserve in accordance with the responsibilities and authorities provided to the Trust under section 108.

[(c) SECRETARIAL AUTHORITY.—The Secretary retains the authority to suspend any decision of the Board with respect to the management of the Preserve if he finds that the decision is clearly inconsistent with this title. Such authority shall only be exercised personally by the Secretary, and may not be delegated. Any exercise of this authority shall be in writing to the Board, and notification of the decision shall be given to the Committees of Congress. Any suspended decision shall be referred back to the Board for reconsideration.

[(d) ACCESS.—The Secretary shall at all times have access to the Preserve for administrative purposes.

**[SEC. 110. TERMINATION OF THE TRUST.]**

[(a) IN GENERAL.—The Valles Caldera Trust shall terminate at the end of the twentieth full fiscal year following acquisition of the Baca ranch under section 104(a).

[(b) RECOMMENDATIONS.—

[(1) BOARD.—

[(A) If after the fourteenth full fiscal year from the date of acquisition of the Baca ranch under section 104(a), the Board believes the Trust has met the goals and objectives of the comprehensive management program under section 108(d), but has not become financially self-sustaining, the Board may submit to the Committees of Congress, a recommendation for authorization of appropriations beyond that provided under this title.

[(B) During the eighteenth full fiscal year from the date of acquisition of the Baca ranch under section 104(a), the Board shall submit to the Secretary its recommendation that the Trust be either extended or terminated including the reasons for such recommendation.

[(2) SECRETARY.—Within 120 days after receipt of the recommendation of the Board under paragraph (1)(B), the Secretary shall submit to the Committees of Congress the Board’s recommendation on extension or termination along with the recommendation of the Secretary with respect to the same and stating the reasons for such recommendation.

[(c) EFFECT OF TERMINATION.—In the event of termination of the Trust, the Secretary shall assume all management and administrative functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

[(d) ASSETS.—In the event of termination of the Trust, all assets of the Trust shall be used to satisfy any outstanding liabilities, and any funds remaining shall be transferred to the Secretary for use, without further appropriation, for the management of the Preserve.

[(e) VALLES CALDERA FUND.—In the event of termination, the Secretary shall assume the powers of the Trust over funds under section 106(h), and the Valles Caldera Fund shall not terminate. Any balances remaining in the fund shall be available to the Secretary, without further appropriation, for any purpose consistent with the purposes of this title.

**[SEC. 111. LIMITATIONS ON FUNDING.**

[(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary and the Trust such funds as are necessary for them to carry out the purposes of this title for each of the 15 full fiscal years after the date of acquisition of the Baca ranch under section 104(a).

[(b) SCHEDULE OF APPROPRIATIONS.—Within two years after the first meeting of the Board, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing appropriated funds that will achieve, at a minimum, the financially self-sustained operation of the Trust within 15 full fiscal years after the date of acquisition of the Baca ranch under section 104(a).

**[SEC. 112. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

[(a) INITIAL STUDY.—Three years after the assumption of management by the Trust, the Government Accountability Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall include, but shall not be limited to, details of programs and activities operated by the Trust and whether it met its obligations under this title.

[(b) SECOND STUDY.—Seven years after the assumption of management by the Trust, the Government Accountability Office shall conduct a study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall provide an assessment of any failure to meet obligations that may be identified under subsection (a), and further evaluation on the ability of the Trust to meet its obligations under this title.]

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