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H. R. 38

[Report No. 103-139]

AN ACT

To establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes.

SEPTEMBER 14 (legislative day, SEPTEMBER 7), 1993
Reported with amendments

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IN THE SENATE OF THE UNITED STATES

APRIL 22 (legislative day, APRIL 19), 1993

Received; read twice and referred to the Committee on Energy and Natural
Resources

SEPTEMBER 14 (legislative day, SEPTEMBER 7), 1993

Reported by Mr. JOHNSTON, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACTTo establish the Jemez National Recreation Area in the
State of New Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ESTABLISHMENT.**

4 (a) PURPOSE AND ESTABLISHMENT.—In order to
5 conserve, protect, and restore the recreational, ecological,
6 cultural, religious, and wildlife resource values of the
7 Jemez Mountains, there is hereby established the Jemez
8 National Recreational Area (hereinafter in this Act re-

1 ferred to as the “recreation area”), to be administered by
2 the Secretary of Agriculture (hereinafter in this Act re-
3 ferred to as the “Secretary”).

4 (b) AREA INCLUDED.—The recreation area shall be
5 comprised of approximately 57,000 acres of lands and in-
6 terests in lands within the Santa Fe National Forest as
7 generally depicted on the map entitled “Jemez National
8 Recreation Area—Proposed” and dated September 1992.
9 The map shall be on file and available for public inspection
10 in the offices of the Chief of the Forest Service, Depart-
11 ment of Agriculture, Washington, District of Columbia.
12 The Secretary may from time to time, in consultation with
13 local tribal leaders, make minor revisions in the boundary
14 of the recreation area to promote management effective-
15 ness and efficiency in furtherance of the purposes of this
16 Act.

17 (c) MAP AND DESCRIPTION.—As soon as practicable
18 after enactment of this Act, the Secretary shall file a map
19 and legal description of the recreation area with the Com-
20 mittee on Natural Resources of the House of Representa-
21 tives and with the Committee on Energy and Natural Re-
22 sources and the Select Committee on Indian Affairs of the
23 Senate. Such map and legal description shall have the
24 same force and effect as if included in this Act, except
25 that correction of clerical and typographical errors in such

1 legal description and map may be made. Such map and
2 legal description shall be on file and available for public
3 inspection in the Office of the Chief of the Forest Service,
4 Department of Agriculture.

5 (d) NO ADDITIONAL LANDS.—No lands or interests
6 therein outside of the boundaries of the recreation area
7 may be added to the recreation area without specific au-
8 thorization by Congress.

9 **SEC. 2. ADMINISTRATION.**

10 (a) IN GENERAL.—The Secretary shall administer
11 the recreation area in accordance with this Act and the
12 laws, rules, and regulations applicable to National Forest
13 System lands in a manner that will further the purposes
14 of the recreation area. Management of the natural re-
15 sources within the recreation area shall be permitted only
16 to the extent that such management is compatible with
17 and does not impair the purposes for which the recreation
18 area is established. Recreational activities within the
19 recreation area shall include (but not be limited to) hiking,
20 camping, hunting, fishing, skiing, backpacking, rock
21 climbing, and swimming.

22 (b) MANAGEMENT PLAN.—The Secretary shall, no
23 later than 5 years after the enactment of this Act, develop
24 a management plan for the recreation area, as an amend-
25 ment to the Santa Fe National Forest Land and Resource

1 Management Plan, to reflect the establishment of the
2 recreation area and to conform to the provisions of this
3 Act. Nothing in this Act shall require the Secretary to re-
4 vise the Santa Fe Forest Land and Resource Management
5 Plan pursuant to section 6 of the Forest and Rangeland
6 Renewable Resources Planning Act of 1974. During devel-
7 opment of the management plan for the recreation area,
8 the Secretary shall study newly designated land within the
9 recreation area, and adjacent national forest land.

10 (c) CULTURAL RESOURCES.—In administering the
11 recreation area, the Secretary shall give particular empha-
12 sis to the preservation, stabilization, and protection of cul-
13 tural resources located within the recreation area in fur-
14 therance of the Archaeological Resources Protection Act
15 of 1979, the National Historic Preservation Act, and the
16 Act of August 11, 1978 (42 U.S.C. 1991) (commonly re-
17 ferred to as the “American Indian Religious Freedom
18 Act”).

19 (d) NATIVE AMERICANS.—(1) In recognition of the
20 historic use of portions of the recreation area by Indian
21 peoples for traditional cultural and ~~religious purposes~~ *cus-*
22 *tomary uses*, the Secretary ~~shall~~, *shall*, *subject to the provi-*
23 *sions of section 2(n)* in consultation with local tribal lead-
24 ers, ensure the protection of religious and cultural sites
25 and provide access from time to time to those sites by In-

1 dian peoples for traditional cultural and religious purposes
2 *customary uses*. Such access shall be consistent with the
3 purpose and intent of the Act of August 11, 1978 (42
4 U.S.C. 1991) (commonly referred to as the “American In-
5 dian Religious Freedom Act”). The Secretary, in accord-
6 ~~ance with such Act, upon request of an Indian tribe or~~
7 ~~pueblo, may from time to time temporarily close to general~~
8 ~~public use one or more specific portions of the recreational~~
9 ~~area in order to protect the privacy of religious activities~~
10 ~~and cultural uses in such portion by Indian peoples. Any~~
11 ~~such closure shall be made so as to affect the smallest~~
12 ~~practicable area for the minimum period necessary for~~
13 ~~such purposes. The Secretary, in accordance with such Act,~~
14 ~~upon request of an Indian tribe or pueblo, may from time~~
15 ~~to time temporarily close to general public use one or more~~
16 ~~specific portions of the recreational area in order to protect~~
17 ~~traditional and customary uses in such portions by Indian~~
18 ~~peoples.~~

19 (2) In preparing and implementing management
20 plans for the recreation area, the Secretary shall request
21 that the Governor of the Pueblo of Jemez and the chief
22 executive officers of other appropriate Indian tribes and
23 pueblos make recommendations on methods of—

24 (A) assuring access to religious and cultural
25 sites;

1 (B) enhancing the privacy and continuity of
2 traditional cultural and religious activities in the
3 recreation area; and

4 (C) protecting traditional cultural and religious
5 sites in the recreation area.

6 (e) WILDLIFE RESOURCES.—In administering the
7 recreation area, the Secretary shall give particular empha-
8 sis to the conservation and protection of wildlife resources,
9 including species listed as sensitive by the Forest Service,
10 within the recreation area and shall comply with applicable
11 Federal and State laws relating to wildlife, including the
12 Endangered Species Act of 1973.

13 (f) HUNTING.—The Secretary shall permit hunting
14 and fishing on lands and waters under the jurisdiction of
15 the Secretary within the recreation area in accordance
16 with applicable Federal and State law. The Secretary may
17 designate zones where, and establish periods when, such
18 activities will not be permitted for reasons of public safety,
19 administration, fish and wildlife management, or public
20 use and enjoyment. Except in emergencies such designa-
21 tion by the Secretary under this subsection shall be put
22 into effect only after consultation with the appropriate
23 State agencies responsible for hunting and fishing activi-
24 ties.

1 (g) TIMBER HARVESTING.—The Secretary may per-
2 mit timber harvesting in the recreation area for commer-
3 cial purposes, including (but not limited to) vigas, latillas,
4 the gathering of fuelwood, and for purposes of public safe-
5 ty, recreation, wildlife, and administration, insofar as the
6 harvesting is compatible with the purposes of the recre-
7 ation area. Trees damaged or downed due to fire, disease,
8 or insect infestation may be utilized, salvaged, or removed
9 from the recreation area as authorized by the Secretary
10 in furtherance of the purposes of this Act. Nothing in this
11 Act shall be construed to affect the timber sales under
12 contract on the date of enactment of this Act. Nothing
13 in this Act shall be construed to effect the Los Griegos
14 timber sale in the Los Griegos Diversity Unit number
15 0322 as shown on the West Half Diversity Unit map of
16 the Santa Fe National Forest dated November 1991; ex-
17 cept that the Secretary shall manage such sale using un-
18 even aged management including the individual tree selec-
19 tion method.

20 (h) GRAZING.—The Secretary may permit grazing
21 within the recreation area in accordance with regulations
22 prescribed by the Secretary. Riparian areas shall be man-
23 aged in such a manner as to protect their important re-
24 source values.

1 (i) TRANSPORTATION PLAN.—(1) Within 1 year after
2 the date of enactment of this Act, the Secretary shall pre-
3 pare a transportation plan that provides for the most effi-
4 cient use of roads and trails to accomplish the purposes
5 of this Act. The plan shall provide for a comprehensive
6 trails system that provides for dispersed recreation while
7 minimizing impact on significant archaeological and reli-
8 gious sites.

9 (2) The Secretary shall construct, maintain, and close
10 roads within the recreation area after consultation with
11 local tribal leaders and only in accordance with such plan.

12 (j) RECREATIONAL FACILITIES.—The Secretary shall
13 provide for recreational facilities within the recreation
14 area. Such facilities shall be constructed so as to minimize
15 impacts on the scenic beauty, the natural character, and
16 the archaeological and religious sites of the recreation
17 area.

18 (k) VISITOR FACILITIES.—The Secretary shall estab-
19 lish a visitor center and interpretive facilities in or near
20 the recreation area for the purpose of providing for edu-
21 cation relating to the interpretation of cultural and natu-
22 ral resources of the recreation area.

23 (l) POWER TRANSMISSION LINES.—In accordance
24 with Federal and State laws and regulations, the Sec-
25 retary may permit a utility corridor for high power electric

1 transmission lines within the recreation area only when
2 the Secretary determines that—

3 (1) there is not a feasible alternative for the lo-
4 cation of such corridor;

5 (2) damage to the recreational and scenic qual-
6 ity and to the archaeological and religious sites of
7 the recreation area will not be significant;

8 (3) it is in the public interest that such corridor
9 be located in the recreation area; and

10 (4) a plan to minimize harm to the resources of
11 the recreation area has been developed.

12 (m) SCIENTIFIC INVESTIGATIONS.—The Secretary
13 may permit scientific investigations within the recreation
14 area upon the Secretary's determination that such inves-
15 tigation are in the public interest and are compatible with
16 the purposes of this Act.

17 (n) *RESOURCE PROTECTION.*—*The Secretary may des-*
18 *ignate zones where, and establish periods when, any activity*
19 *otherwise permitted in the recreation area will not be per-*
20 *mitted for reasons of public safety, administration, fish and*
21 *wildlife management, protection of archaeological or cul-*
22 *tural resources, or public use and enjoyment. Except in*
23 *emergencies such designations by the Secretary shall be put*
24 *into effect only after consultation with the appropriate*

1 *State agencies, appropriate tribal leaders, and other af-*
2 *ected parties.*

3 **SEC. 3. MINERALS AND MINING.**

4 (a) LIMITATION ON PATENT ISSUANCE.—(1) Not-
5 withstanding any other provision of law, no patents shall
6 be issued after May 30, 1991, for any location or claim
7 made in the recreation area under the mining laws of the
8 United States.

9 (2) Notwithstanding any statute of limitations or
10 similar restriction otherwise applicable, any party claiming
11 to have been deprived of any property right by enactment
12 of paragraph (1) may file in the United States Claims
13 Court a claim against the United States within 1 year
14 after the date of enactment of this Act seeking compensa-
15 tion for such property right. The United States Claims
16 Court shall have jurisdiction to render judgment upon any
17 such claim in accordance with section 1491 of title 28,
18 United States Code.

19 (b) WITHDRAWAL.—Subject to valid existing rights,
20 after the date of enactment of this Act, lands within the
21 recreation area withdrawn from location under the general
22 mining laws and from the operation of the mineral leasing,
23 geothermal leasing, and mineral material disposal laws.

24 (c) RECLAMATION.—No mining activity involving any
25 surface disturbance of lands or waters within such area,

1 including disturbance through subsidence, shall be per-
2 mitted except in accordance with requirements imposed by
3 the Secretary, including requirements for reasonable rec-
4 lamation of disturbed lands to a visual and hydrological
5 condition as close as practical to their premining condi-
6 tion.

7 (d) MINING CLAIM VALIDITY REVIEW.—The Sec-
8 retary of Agriculture shall undertake and complete within
9 3 years after the date of enactment of this Act an expe-
10 dited program to examine all unpatented mining claims,
11 including those for which a patent application has been
12 filed, within the recreation area. Upon determination by
13 the Secretary of Agriculture that the elements of a contest
14 are present, the Secretary of the Interior shall imme-
15 diately determine the validity of such claims. If a claim
16 is determined to be invalid, the Secretary shall promptly
17 declare the claim to be null and void.

18 (e) PUBLIC PURPOSES.—The Secretary may utilize
19 mineral materials from within the recreation area for pub-
20 lic purposes such as maintenance and construction of
21 roads, trails, and facilities as long as such use is compat-
22 ible with the purposes of the recreation area.

23 **SEC. 4. ADJOINING LANDS.**

24 The Secretary may evaluate lands adjoining the
25 recreation area for possible inclusion in the recreation area

1 and make recommendations to Congress, including (but
2 not limited to) that area authorized for study by section
3 5 of Public Law 101–556 (104 Stat. 2764), known as the
4 Baca Location Number 1. The Secretary, in consultation
5 with local tribal leaders and the National Park Service,
6 shall, no later than 2 years after enactment of this Act,
7 submit recommendations with respect to future bound-
8 aries for the recreation area.

9 **SEC. 5. ACQUISITION OF LAND.**

10 (a) *STATE LAND.*—*Land and interests in land within*
11 *the boundaries of the recreation area that are owned by the*
12 *State of New Mexico, or a political subdivision of New Mex-*
13 *ico, may be acquired only by donation or exchange.*

14 (b) *OFFERS TO SELL.*—

15 (1) *IN GENERAL.*—*Subject to paragraph (2), the*
16 *Secretary may acquire land and interests in land*
17 *within the boundaries of the recreation area by dona-*
18 *tion, purchase with donated or appropriated funds, or*
19 *exchange.*

20 (2) *LIMITATION.*—*The Secretary may not ac-*
21 *quire lands within the recreation area without the*
22 *consent of the owner thereof unless the Secretary has*
23 *determined that such lands will be put to a use dif-*
24 *ferent from their use as of the date of enactment of*
25 *this Act and that such new use would be incompatible*

