



WATER-RIGHT DOCKET

El Malpais National Monument

Docket No: 1

IN SITU AND ADMINISTRATION

State Water Rights Documentation

00-00-0000: state of new mexico ex rel. s.e. reynolds, state engineer plaintiff vs. kerr-mcgee corporation, et al

THIRTEENTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF CIBOLA

STATE OF NEW MEXICO ex rel.
S.E. REYNOLDS, State Engineer

Plaintiff

Nos. CB-83-190CV &
CB-83-220CV
Consolidated

vs.

KERR-McGEE CORPORATION, et al.,

Defendants.

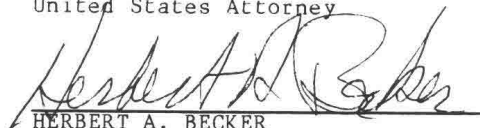
CERTIFICATE OF SERVICE

This certifies that the following documents were filed and served on the 1st of June, 1989.

1. Hydrographic Survey of Acoma, Laguna and Navajo Tribes, and for the allottees.
2. Maps showing location of allottees lands.
3. Maps showing location of Acoma and Laguna lands.
4. Maps showing location of Navajo lands.
5. Maps showing location of uses for Acoma, Laguna, Navajo Tribes and various allottees.
6. Hydrographic survey of El Malpais National Monument plus map.
7. Hydrographic Survey for the Forest Service.
8. Hydrographic Survey for the Bureau of Land Management.
9. List of Navajo allotments and Navajo Tribal Interests by location.
10. Summary statement of water claims for Laguna, Acoma and Navajo Tribes.

Respectfully submitted,

WILLIAM L. LUTZ
United States Attorney

A handwritten signature in dark ink, appearing to read "Herbert A. Becker", is written over a horizontal line.

HERBERT A. BECKER
Assistant U. S. Attorney
P. O. Box 607
Albuquerque, New Mexico 87103
(505) 766-3341

THIRTEENTH JUDICIAL DISTRICT, NEW MEXICO

IN THE MATTER OF THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE RIO SAN JOSE BASIN WATER SYSTEM, STATE OF NEW MEXICO v. KERR-MCGEE CORP., et al., NOS. CB-83-190-CV and CB-83-220-CV. CLAIM OF THE UNITED STATES OF AMERICA, NATIONAL PARK SERVICE, EL MALPAIS NATIONAL MONUMENT FOR RESERVED AND APPROPRIATED WATER RIGHTS.

I. Name and Address of Applicant:

United States of America
c/o National Park Service
Southwest Regional Office
P.O. Box 728
Santa Fe, New Mexico 87504-0728

II. Reserved Water Rights - The United States of America hereby claims reserved water rights in those portions of the El Malpais National Monument described below which are encompassed by this adjudication. The United States claims reserved rights under the legislation which designates El Malpais National Monument (101 Stat. 1539 and 16 U.S.C. 1 et seq.) as follows:

A. Surface and Ground Water (Non-Consumptive)

1. Purpose: To preserve for the benefit and enjoyment of present and future generations the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources; and to preserve the scenery and the natural, historic, and cultural resources of the monument and provide for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations; and to conserve the scenery and the natural and historic objects and the wild life therein, and 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 (see Exhibits ELMA #1 and #2).
2. Sources: All named and unnamed streams and lakes; all surface and ground water sources including intermittent streams, springs, seeps, lakes, and other natural sources of water on and under lands reserved from the public domain.
3. Location of Sources and Uses: Lands reserved from the public domain. (See Exhibit ELMA #3.)
4. Date of Priority: December 31, 1987, by Act of Congress of that date (Exhibit ELMA #1).

5. Amount of Water Claimed: The United States of America claims the right to that minimum amount of surface and ground water occurring on and under those portions of El Malpais National Monument reserved from the public domain necessary to fulfill the purposes described in II.A.1. above.

B. Present and Future Administrative Uses (Consumptive)

1. Purpose: To preserve for the benefit and enjoyment of present and future generations the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources; and to preserve the scenery and the natural, historic, and cultural resources of the monument and provide for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations; and to conserve the scenery and the natural and historic objects and the wild life therein, and 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 (see Exhibits ELMA #1 and #2).
2. Sources: All named and unnamed streams and lakes; all surface and ground water sources including intermittent streams, springs, seeps, lakes, and other natural sources of water on and under lands reserved from the public domain.
3. Location of Sources, Diversions and Uses: Lands reserved from the public domain. (See Exhibit ELMA #3.)
4. Date of Priority: December 31, 1987, by Act of Congress of that date (Exhibit ELMA #1).
5. Amount of Water Claimed: The United States of America claims the right to use non-quantifiable amounts of water for controlling and suppressing wildfire and structural fires.

The United States of America claims the right to divert and use 15 AF/annum from surface and ground water sources for park administration facilities, ranger stations, campgrounds, visitor contact stations, and attendant facilities; construction of trails, and revegetation activities.

- III. Appropriative Water Rights - The United States of America hereby claims water rights under the laws of the State of New Mexico in those portions of the El Malpais National Monument described below which are encompassed by this adjudication. By Act of Congress (101 Stat. 1539, see Exhibit ELMA #1), waters, and interests therein, within the boundaries of the Monument which were administered by the Forest Service, U.S. Department of Agriculture and the Bureau of Land Management, U.S. Department of the Interior are hereby administered by the National Park Service. Accordingly, the United States of America claims appropriative water rights for El Malpais National Monument as follows:

A. Water Wells

1. Purpose: Livestock and Wildlife Watering
2. Source: Ground Water
3. Location of Diversion and Use:
6A Well SW1/4, SE1/4, NE1/4, Sec. 1, R11W, T8N
4. Date of Priority:
6A Well 01/01/61
5. Amount of Water Claimed:
6A Well 3 acre feet per year
6. Period of Use: January 1 through December 31

B. Surface Water Reservoirs

1. Purpose: Livestock and Wildlife Watering
2. Source: Surface Water
3. Location of Diversion and Use:
Arrosa Ranch
Reservoir #4 SW1/4, SE1/4, NE1/4, Sec. 1, R11W, T8N

Unnamed
Reservoir #1 NW1/4, SE1/4, SE1/4, Sec. 22, R12W, T8N

Unnamed
Reservoir #2 SW1/4, SW1/4, NE1/4, Sec. 34, R10W, T8N

Unnamed
Reservoir #3 SW1/4, SE1/4, NW1/4, Sec. 6, R 9W, T8N

Unnamed
Reservoir #4 SE1/4, SE1/4, NE1/4, Sec. 34, R10W, T8N

York Pit
Tank #6 NE1/4, NW1/4, SW1/4, Sec. 1, R11W, T6N

York Pit
Tank #7 SE1/4, SE1/4, NW1/4, Sec. 1, R10W, T6N

Lake NW1/4, NW1/4, NE1/4, Sec. 29, R10W, T7N

Shallow Lake NE1/4, SE1/4, SW1/4, Sec. 18, R12W, T7N

Pit Tank NW1/4, NW1/4, SE1/4, Sec. 18, R12W, T7N

No. Pasture	
Shallow Lake	SE1/4, SE1/4, SW1/4, Sec. 1, R11W, T6N
No. Pasture	
Shallow Lake	SE1/4, NE1/4, SW1/4, Sec. 1, R11W, T6N
Access Tank	SE1/4, SW1/4, SW1/4, Sec. 28, R11W, T9N
Field's Tank	NE1/4, NE1/4, NW1/4, Sec. 30, R11W, T9N
Hidden Tank	NW1/4, SE1/4, SE1/4, Sec. 30, R11W, T9N
Ditch Tank	SE1/4, SE1/4, SE1/4, Sec. 33, R11W, T9N

4. Date of Priority:

Arrosa Ranch Res. 4	10/07/42
Unnamed Reservoir #1	12/31/67
Unnamed Reservoir #2	07/15/61
Unnamed Reservoir #3	12/31/61
Unnamed Reservoir #4	07/15/61
York Pit Tank #6	01/29/64
York Pit Tank #7	01/29/64
Lake	04/17/26
Shallow Lake	12/31/61
Pit Tank	12/31/61
No. Pasture Shallow Lake	12/31/61
No. Pasture Shallow Lake	12/31/61
Access Tank	01/01/30
Field's Tank	01/01/30
Hidden Tank	01/01/30
Ditch Tank	01/01/30

5. Amount of Water Claimed:

Arrosa Ranch Res. #4	0.48 acre feet per year
Unnamed Reservoir #1	0.08 acre feet per year
Unnamed Reservoir #2	0.38 acre feet per year
Unnamed Reservoir #3	0.28 acre feet per year
Unnamed Reservoir #4	0.16 acre feet per year
York Pit Tank #6	0.40 acre feet per year
York Pit Tank #7	0.79 acre feet per year
Lake	0.60 acre feet per year
Shallow Lake	0.30 acre feet per year
Pit Tank	0.66 acre feet per year
No. Pasture Shallow Lake	0.50 acre feet per year
No. Pasture Shallow Lake	0.20 acre feet per year
Access Tank	0.40 acre feet per year
Field's Tank	0.40 acre feet per year
Hidden Tank	0.40 acre feet per year
Ditch Tank	0.40 acre feet per year

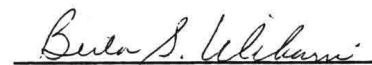
6. Period of Use: For Each Source, January 1 through December 31.

IV. Notarized Statement

I, Richard Marks, on behalf of the United States of America, National Park Service, the claimant named in this claim, do hereby certify under penalty of perjury, that I have read the information contained and statements made herein and to the best of my knowledge and belief they are true, correct and complete.

A handwritten signature in cursive script, appearing to read "Richard Marks", written over a horizontal line.

Subscribed and sworn to before me this 25 day of May, 1989.

A handwritten signature in cursive script, appearing to read "Berta S. Williams", written over a horizontal line.
Notary Public

My Commission Expires:

3/4/91

List of Exhibits

- ELMA #1 - Act of December 31, 1987 (101 Stat. 1539)
- ELMA #2 - Act of August 25, 1916 (39 Stat. 535)
- ELMA #3 - Map showing location and date of reservation

PUBLIC LAW 100-225—DEC. 31, 1987

101 STAT. 1539

Public Law 100-225
100th Congress

An Act

To establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Massau Trail, and for other purposes.

Dec. 31, 1987
[H.R. 4031]

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

TITLE I—EL MALPAIS NATIONAL MONUMENT

ESTABLISHMENT OF MONUMENT

SEC. 101. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-40.001-B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

16 USC 460uu.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

Public information.

TRANSFER

SEC. 102. Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to the date of enactment of this Act were administered by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

National Forest System.
16 USC 460uu-1.

MANAGEMENT

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with

16 USC 460uu-2.

EXHIBIT ELMA NO. 1

101 STAT. 1540

PUBLIC LAW 100-225—DEC. 31, 1987

the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

PERMITS

Animals.
Contracts.
16 USC 460uu-3.

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in subsection 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and
(b) scheduled for termination before December 31, 1997,
the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

State and local
governments.
Indians.

TITLE II—MASAU TRAIL

DESIGNATION OF TRAIL

Arizona
Federal
Register,
publication.
16 USC
460uu-1.

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road, the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the "trail").

AREAS INCLUDED

16 USC
460uu-12.

SEC. 202. The trail shall include public roads linking El Malpais National Monument as established pursuant to title I of this Act, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

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101 STAT. 1541

INFORMATION AND INTERPRETATION

Sec. 203. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational material for the public appreciation of sites along the trail.

16 USC
460uu-13

MARKERS

Sec. 204. The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

16 USC
460uu-14

TITLE III—EL MALPAIS NATIONAL CONSERVATION AREA

ESTABLISHMENT OF AREA

Sec. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 262,590 acres of federally owned land as generally depicted on a map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-40.001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

16 USC
460uu-15

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public
informationPublic
information

MANAGEMENT

Sec. 302. (a) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 301 and in accordance with this Act, the Federal Land Management and Policy Act of 1976

Animals.
16 USC
460uu-22

101 STAT. 1542

PUBLIC LAW 100-225--DEC. 31, 1987

and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

Forests and
forest
products.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Except as otherwise provided in section 402(b), within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this Act, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

National
Wilderness
Preservation
System.

TITLE IV--WILDERNESS

DESIGNATION OF WILDERNESS

16 USC
1604uu--41.

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1311), there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Ceboila Wilderness of approximately 60,000 acres, and the West Maipais Wilderness of approximately 38,210 acres, as each is generally depicted on the map entitled "El Maipais National Monument and National Conservation Area" numbered NM-ELMA-40.001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

16 USC 1132
note.

Public
information.

(b) As soon as practicable after the date of the enactment of this Act, the Secretary shall file a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public
information.

MANAGEMENT

16 USC
460uu--42.

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this Act shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

Animals.

(b) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as

PUBLIC LAW 100-225--DEC. 31, 1987

101 STAT. 1542

long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V--GENERAL PROVISIONS

MANAGEMENT PLANS

SEC. 501. (a) Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

National
Wilderness
Preservation
System.
16 USC
460uu-4i.

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archaeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this Act; and

Indians.

(4) wildlife resources management plans for the monument and the conservation area prepared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

Wildlife.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or unsuitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as "Wilderness Study Area" (hereafter in this title referred to as the "WSA") on the map referenced in section 101.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the

101 STAT. 1544

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lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(cx1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this Act except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

ACQUISITIONS

Public lands.
Gifts and
property
to USC
41600-42.

SEC. 502. Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this Act.

STATE EXCHANGES

Public lands.
Gifts and
property
to USC
41600-43.

SEC. 503. (a) Upon the request of the State of New Mexico (hereinafter referred to as the "State") and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as "State lands") located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after the date of enactment of this Act, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of

PUBLIC LAW 100-225—DEC. 31, 1987

101 STAT. 1545

lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

SEC. 504. (a) The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) for the private mineral interests in the lands described in subsection (c), if—

16 USC
460uu-44

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interest.

(b) The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as "Proposed for transfer to Santa Fe Pacific" on the map referenced in subsection (d).

(c) The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as "Proposed for transfer to U.S." on the map referenced in subsection (d).

(d)(1) The mineral interests identified in this section underlie those lands depicted as "Proposed for transfer to Santa Fe Pacific" and as "Proposed for transfer to U.S." on a map entitled "El Malpais Leg. Boundary, HR3684/S56", revised 5-8-87.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public
information.

(e) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

ACOMA PUEBLO EXCHANGES

SEC. 505. (a)(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as "trust lands") located within the boundary of the conservation area which the Pueblo

Indians.
Public lands.
16 USC
460uu-45.

wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) (with respect to trust lands west of New Mexico Highway 117), or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976.

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 104 and all other provisions of this Act and other law applicable to lands designated by this Act as part of the monument shall apply to such incorporated lands.

(b) For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource management plans described in subsection (a), shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this Act shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c)(1) The Secretary shall make the lands within the areas identified as "Acoma Potential Exchange Areas" on the map referenced in section 301 available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after the date of enactment of this Act, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolilla Wilderness and managed accordingly.

Public lands.
16 USC
460uu-46.

EXCHANGES AND ACQUISITIONS GENERALLY; WITHDRAWAL

SEC. 506. (a) All exchanges pursuant to this Act shall be made in a manner consistent with applicable provisions of law, including this

Act, and unless otherwise specified in this Act shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) For purposes of this Act, the term "public lands" shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976.

(c) Except as otherwise provided in section 505, any lands or interests therein within the boundaries of the monument or conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this Act and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

(d)(1) Except as otherwise provided in this Act, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise. Indians

(2) Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto. Minerals and mining.

(e) The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on the date of enactment of this Act) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

(g)(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument. 16 USC 431 note.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after "boundaries of the monument" and inserting "shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125-60.014 and dated January 1987."

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National

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in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

WATER RIGHTS

Sec. 509. (a) Congress expressly reserves to the United States the minimum amount of water required to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

16 USC
460uu-49

(b) Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of the date of enactment of this Act and which are subsequently granted: *Provided*, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

AUTHORIZATION

Sec. 510. There is authorized to be appropriated \$16,500,000 for the purposes of this Act, of which \$10,000,000 shall be available for land acquisition in the national monument; \$1 million shall be available for development within the national monument; \$4 million shall be available for land acquisition within the conservation area; \$1 million shall be available for development within the conservation area; and \$500,000 shall be available for planning and development of the Masau Trail.

16 USC
460uu-50

Approved December 31, 1987.

LEGISLATIVE HISTORY--H.R. 403

HOUSE REPORTS: No. 100-116 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-100 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 1, considered and passed House.
Dec. 17, considered and passed Senate, amended.
Dec. 18, House concurred in Senate amendment.

An Act To establish a National Park Service, and for other purposes approved August 25, 1916 (39 Stat. 535)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director, who shall be appointed by the Secretary and who shall receive a salary of \$4,500 per annum. There shall also be appointed by the Secretary the following assistants and other employees at the salaries designated: One assistant director, at \$2,500 per annum; one chief clerk, at \$2,000 per annum; one draftsman, at \$1,800 per annum; one messenger, at \$600 per annum; and, in addition thereto, such other employees as the Secretary of the Interior shall deem necessary: *Provided*, That not more than \$8,100 annually shall be expended for salaries of experts, assistants, and employees within the District of Columbia not herein specifically enumerated unless previously authorized by law. The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and 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. (U.S.C., title 16, sec. 1.)

National Park Service established. Director, etc., to be appointed. (Amended by 42 Stat. 1648 "Classification Act.")

Limit for experts.

Purpose defined.

Director. Control of national parks, etc.

Sec. 2. That the director shall, under the direction of the Secretary of the Interior, have the supervision, management, and control of the several national parks and national monuments which are now under the jurisdiction of the Department of the Interior, and of the Hot Springs Reservation in the State of Arkansas, and of such other national parks and reservations of like character as may be hereafter created by Congress: *Provided*, That in the supervision, management, and control of national monuments contiguous to national forests the Secretary of Agriculture may cooperate with said National Park Service to such extent as may be requested by the Secretary of the Interior (U.S.C., title 16, sec. 2.)

National monuments contiguous to national forests.

Regulations for management, etc., to be made.

Punishment for violations. (Amended by 41 Stat. 732. See p. 11.)

Sec. 3. That the Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violations of any of the rules and regulations authorized by this Act shall be punished as provided for in section fifty of the Act entitled "An Act to codify and amend the penal laws of the United States," approved March fourth, nineteen hundred and nine, as amended by section six of the Act of June twenty-fifth, nineteen hundred and ten (Thirty-sixth United States Statutes at Large, page eight hun-

EXHIBIT ELMA NO. 2

dred and fifty-seven). He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding twenty years; and no natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided, however,* That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze live stock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park. (U.S.C., title 16, sec. 3.)

Disposal of timber. *Lenses, etc., for accommodation of visitors.* *(Amended by 45 Stat. 226. See p. 11.)* *Grazing permits.* *Yellowstone Park excepted.* *Rights of way not affected.* *Vol. 51, p. 794. (See p. 2.)*

Sec. 4. That nothing in this Act contained shall affect or modify the provisions of the Act approved February fifteenth, nineteen hundred and one, entitled "An Act relating to rights of way through certain parks, reservations, and other public lands." (U.S.C., title 16, sec. 4.)

Docket Compiled: 3/10/2011