

(f) **PROHIBITION ON OPERATION AND MAINTENANCE.**—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(g) **OWNERSHIP AND OPERATION OF FISH PASSAGE FACILITY.**—Any facility constructed using Federal funds authorized by this Act located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

SEC. 4. RELATIONSHIP TO OTHER LAW.

Activities funded under this Act shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to the pay the Federal share of the costs of activities authorized under this Act \$25,600,000.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1355), as amended, was read the third time and passed.

ALASKA NATIVE ALLOTMENT SUBDIVISION ACT

The Senate proceeded to consider the bill (S. 1421) to authorize the subdivision and dedication of restricted land owned by Alaska Natives, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1421

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

SECTION 1. SHORT TITLE.

[This Act may be cited as the “Alaska Native Allotment Subdivision Act”].

SEC. 2. FINDINGS.

[Congress finds that—

[(1) Alaska Natives that own land subject to Federal restrictions against alienation and taxation need to be able to subdivide the restricted land for the purposes of—

[(A) transferring by gift, sale, or devise separate interests in the land; or

[(B) severing, by mutual consent, tenancies in common;

[(2) for the benefit of the Alaska Native restricted landowners, any persons to which the restricted land is transferred, and the public in general, the Alaska Native restricted landowners should be authorized to dedicate—

[(A) rights-of-way for public access;

[(B) easements for utility installation, use, and maintenance; and

[(C) additional land for other public purposes;

[(3)(A) the lack of an explicit authorization by Congress with respect to the subdivision and dedication of Alaska Native land that is subject to Federal restrictions has called into question whether such subdivision and dedication is legal; and

[(B) this legal uncertainty has been detrimental to the rights of Alaska Native restricted landowners to use or dispose of the restricted land in the same manner as other landowners are able to use and dispose of land;

[(4) extending to Alaska Native restricted land owners the same authority that other

landowners have to subdivide and dedicate land should be accomplished without depriving the Alaska Native restricted landowners of any of the protections associated with restricted land status;

[(5) confirming the right and authority of Alaska Native restricted land owners, subject to the approval of the Secretary of the Interior, to subdivide their land and to dedicate their interests in the restricted land, should be accomplished without affecting the laws relating to whether tribal governments or the State of Alaska (including political subdivisions of the State) have authority to regulate land use;

[(6) Alaska Native restricted land owners, persons to which the restricted land is transferred, State and local platting authorities, and members of the general public have formed expectations in reliance on past subdivisions and dedications; and

[(7) those expectations should be fulfilled by ratifying the validity under Federal law of the subdivisions and dedications.

SEC. 3. DEFINITIONS.

[In this Act:

[(1) **RESTRICTED LAND.**—The term “restricted land” means land in the State that is subject to Federal restrictions against alienation and taxation.

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

[(3) **STATE.**—The term “State” means the State of Alaska.

SEC. 4. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

[(a) **IN GENERAL.**—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

[(1) subdivide the restricted land in accordance with the laws of the—

[(A) State; or

[(B) applicable local platting authority; and

[(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

[(b) **RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.**—Any subdivision or dedication of restricted land executed before the date of enactment this Act that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

SEC. 5. EFFECT.

[(a) **IN GENERAL.**—Nothing in this Act validates or invalidates any assertion—

[(1) that a Federally recognized Alaska Native tribe has or lacks jurisdiction with respect to any land in the State;

[(2) that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in the State; or

[(3) that, except as provided in section 4, the State or any political subdivision of the State does or does not have the authority to regulate the use of any individually owned restricted land.

[(b) **EFFECT ON STATUS OF LAND NOT DEDICATED.**—Except in a case in which a specific interest in restricted land is dedicated under section (4)(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 4(a)(1)).]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Alaska Native Allotment Subdivision Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **RESTRICTED LAND.**—The term “restricted land” means land in the State that is subject to Federal restrictions against alienation and taxation.

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

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SEC. 3. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

(a) **IN GENERAL.**—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

(1) subdivide the restricted land in accordance with the laws of the—

(A) State; or

(B) applicable local platting authority; and

(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

(b) **RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.**—Any subdivision or dedication of restricted land executed before the date of enactment of this Act that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

SEC. 4. EFFECT ON STATUS OF LAND NOT DEDICATED.

Except in a case in which a specific interest in restricted land is dedicated under section 3(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 3(a)(1)).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1421), as amended, was read the third time and passed.

SOUTHWEST FOREST HEALTH AND WILDFIRE PREVENTION ACT OF 2004

The bill (H.R. 2696) to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West was considered, ordered to a third reading, read the third time, and passed.

ARCH HURLEY CONSERVANCY DISTRICT WATER CONSERVATION PROJECT FEASIBILITY STUDY

The Senate proceeded to consider the bill (S. 1071) to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1071

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

SECTION 1. STUDY AUTHORIZATION.

(a) **AUTHORIZATION.**—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation, and in consultation and cooperation with the Arch Hurley Conservancy District and the State Engineer in New Mexico, is authorized to conduct a study to determine the feasibility of implementing a water conservation project that will minimize water losses from the irrigation conveyance works of the Arch Hurley Conservancy District, and to consider—

(1) options for utilizing any saved water made available from the conservation project including the possible conveyance of such water, in accordance with State law, to the Pecos River basin to address water supply issues in that basin;

(2) the impacts that the conservation project could have on the local water supply in and around the Arch Hurley Conservancy District and any appropriate mitigation that may be necessary if the project is implemented; and

(3) appropriate cost-sharing options for implementation of the project based on the use and possible allocation of any conserved water.

(b) REPORT.

(1) Upon completion of the feasibility study authorized by this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the study.

(2) In developing the report, the Secretary shall utilize reports or any other relevant information supplied by the Arch Hurley Conservancy District or the State Engineer in New Mexico.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) **AMOUNT.**—There are authorized to be appropriated \$500,000 \$2,500,000 to carry out this Act.

(b) COST SHARE.

(1) The Federal share of the costs of the feasibility study shall not exceed 50 percent of the total, except that the Secretary of the Interior is authorized to waive or limit the required non-Federal cost share for the feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the Arch-Hurley Conservancy District, that the District is unable to contribute such required share.

(2) The Secretary of the Interior may accept as part of the non-Federal cost share the contribution of such in-kind services by the Arch Hurley Conservancy District as the Secretary determines will contribute substantially toward the conduct and completion of the study.

The committee amendment was agreed to.

The bill (S. 1071), as amended, was read the third time and passed.

VALLES CALDERA PRESERVATION ACT OF 2004

The Senate proceeded to consider the bill (S. 1582) to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1582

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

[SECTION 1. SHORT TITLE.

]This Act may be cited as the “Valles Caldera Preservation Act of 2003”.

[SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

[(a) TRUST EMPLOYMENT.—Section 106(d) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(d)) is amended—

[(1) in paragraph (1)—

[(A) by striking “The Trust” and inserting the following:

[(“A) APPOINTMENT.—The Trust”];

[(B) by inserting after the first sentence the following:

[(“B) CONTRACT OR EMPLOYMENT AGREEMENT.—Employees of the Trust may be employed under an employment agreement, the terms and conditions of which shall be determined by the Trust subject to this subsection.”]; and

[(C) by striking “No employee” and inserting the following:

[(“C) MAXIMUM COMPENSATION.—No employee”]; and

[(2) in paragraph (2)—

[(A) in subparagraph (A), by striking “shall” each place it appears and inserting “may”]; and

[(B) by adding at the end the following:

[(“C) ELIGIBILITY FOR COMPETITIVE SERVICE.—

[(“i) IN GENERAL.—An employee of the Trust shall not be precluded from consideration for a position in the competitive service that is open to other Federal employees.

[(“ii) CLASSIFICATION AND PAY RATE.—In considering an employee of the Trust for a position in the competitive service under clause (i), the employing agency shall consider a position with the Trust to be comparable in classification and General Schedule pay rates to a similar position in the competitive service.”.

[(b) OBLIGATIONS AND EXPENDITURES.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(e)) is amended by adding at the end the following:

[(“4) OBLIGATIONS AND EXPENDITURES.—Subject to the laws applicable to Government corporations, the Trust shall determine—

[(“A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

[(“B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.”.

[(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(g)) is amended by striking “The Trust may solicit” and inserting “The members of the Board of Trustees and any employees of the Trust designated by the Board of Trustees may solicit”.

[(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(h)(1)) is amended by striking “subsection (g)” and inserting “subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999.”.

[(e) CLAIMS AND JUDGMENTS.—Section 106(j) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(j)) is amended—

[(1) in the first sentence, by striking “The Trust” and inserting the following:

[(“1) IN GENERAL.—The Trust”]; and

[(2) by adding at the end the following:

[(“2) PERMANENT JUDGMENT APPROPRIATION.—During any fiscal year in which funds have been appropriated to the Trust or the Secretary to carry out this title, the Trust shall not be precluded from using the permanent judgment appropriation under section 1304 of title 31, United States Code, for a claim, judgment, or settlement against the Trust or the Secretary in the name of the United States.”.

[SEC. 3. BOARD OF TRUSTEES.

]Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v-5(e)) is amended—

[(1) in paragraph (2), by striking “Trustees” and inserting “Except as provided in paragraph (3), Trustees”]; and

[(2) in paragraph (3)—

[(A) by striking “Trustees” and inserting the following:

[(“A) SELECTION.—Trustees”]; and

[(B) by adding at the end the following:

[(“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.”.

[SEC. 4. RESOURCE MANAGEMENT.

[(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(c)(3)) is amended—

[(1) in the first sentence, by striking “The Trust may not dispose” and inserting the following:

[(“A) IN GENERAL.—The Trust may not dispose”];

[(2) in the second sentence, by striking “The Trust” and inserting the following:

[(“B) MAXIMUM DURATION.—The Trust”];

[(3) in the last sentence, by striking “Any such” and inserting the following:

[(“C) TERMINATION.—The”]; and

[(4) by adding at the end the following:

[(“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.”.

[(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(g)) is amended—

[(1) in the first sentence, by striking “The Secretary” and inserting the following:

[(“1) LAW ENFORCEMENT.—The Secretary”];

[(2) in the second sentence, by striking “The Trust” and inserting the following:

[(“B) FEDERAL AGENCY.—The Trust”]; and

[(3) by striking “At the request of the Trust” and all that follows through the end of the paragraph and inserting the following:

[(“2) FIRE MANAGEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide, under a cooperative agreement entered into between the Secretary and the Trust—

[(“A) fire suppression and rehabilitation services; and

[(“B) wildland fire severity funding for extraordinary fire preparedness.”.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Valles Caldera Preservation Act of 2004”.

SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) ACQUISITION OF OUTSTANDING MINERAL INTERESTS.—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-2(e)) is amended—

(1) by striking “The acquisition” and inserting the following:

“(1) IN GENERAL.—The acquisition”;

(2) by striking “The Secretary” and inserting the following: