

Calendar No. 524

108TH CONGRESS
2D SESSION**S. 1582****[Report No. 108-269]**

To amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

SEPTEMBER 4, 2003

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

MAY 20, 2004

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Valles Caldera Preser-
5 vation Act of 2003”.

1 **SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESER-**
 2 **VATION ACT.**

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

6 (1) in paragraph (1)—

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

9 “(A) **APPOINTMENT.**—The Trust”;

10 (B) by inserting after the first sentence
 11 the following:

12 “(B) **CONTRACT OR EMPLOYMENT AGREE-**
 13 **MENT.**—Employees of the Trust may be em-
 14 ployed under an employment agreement, the
 15 terms and conditions of which shall be deter-
 16 mined by the Trust subject to this subsection.”;
 17 and

18 (C) by striking “No employee” and insert-
 19 ing the following:

20 “(C) **MAXIMUM COMPENSATION.**—No em-
 21 ployee”; and

22 (2) in paragraph (2)—

23 (A) in subparagraph (A), by striking
 24 “shall” each place it appears and inserting
 25 “may”; and

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

1 “(C) ELIGIBILITY FOR COMPETITIVE SERV-
2 ICE.—

3 “(i) IN GENERAL.—An employee of
4 the Trust shall not be precluded from con-
5 sideration for a position in the competitive
6 service that is open to other Federal em-
7 ployees.

8 “(ii) CLASSIFICATION AND PAY
9 RATE.—In considering an employee of the
10 Trust for a position in the competitive
11 service under clause (i), the employing
12 agency shall consider a position with the
13 Trust to be comparable in classification
14 and General Schedule pay rates to a simi-
15 lar position in the competitive service.”.

16 (b) OBLIGATIONS AND EXPENDITURES.—Section
17 106(e) of the Valles Caldera Preservation Act (16 U.S.C.
18 698v-4(e)) is amended by adding at the end the following:

19 “(4) OBLIGATIONS AND EXPENDITURES.—Sub-
20 ject to the laws applicable to Government corpora-
21 tions, the Trust shall determine—

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

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

4 (e) SOLICITATION OF DONATIONS.—Section 106(g)
5 of the Valles Caldera Preservation Act (16 U.S.C. 698v-
6 4(g)) is amended by striking “The Trust may solicit” and
7 inserting “The members of the Board of Trustees and any
8 employees of the Trust designated by the Board of Trust-
9 ees may solicit”.

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

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

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

21 “(1) IN GENERAL.—The Trust”; and

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

23 “(2) PERMANENT JUDGMENT APPROPRIA-
24 TION.—During any fiscal year in which funds have
25 been appropriated to the Trust or the Secretary to

1 carry out this title, the Trust shall not be precluded
 2 from using the permanent judgment appropriation
 3 under section 1304 of title 31, United States Code,
 4 for a claim, judgment, or settlement against the
 5 Trust or the Secretary in the name of the United
 6 States.”.

7 **SEC. 3. BOARD OF TRUSTEES.**

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

10 (1) in paragraph (2), by striking “Trustees”
 11 and inserting “Except as provided in paragraph (3),
 12 Trustees”; and

13 (2) in paragraph (3)—

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

16 “(A) SELECTION.—Trustees”; and

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

18 “(B) COMPENSATION.—On request of the
 19 chair, the chair may be compensated at a rate
 20 determined by the Board of Trustees, but not
 21 to exceed the daily equivalent of the annual rate
 22 of pay for level IV of the Executive Schedule
 23 under section 5315 of title 5, United States
 24 Code, for each day (including travel time) in

1 which the chair is engaged in the performance
2 of duties of the Board of Trustees.

3 “(C) ~~MAXIMUM RATE OF PAY.~~—The total
4 amount of compensation paid to the chair for a
5 fiscal year under subparagraph (B) shall not
6 exceed 25 percent of the annual rate of pay for
7 level IV of the Executive Schedule under section
8 5315 of title 5, United States Code.”.

9 **SEC. 4. RESOURCE MANAGEMENT.**

10 (a) ~~PROPERTY DISPOSAL LIMITATIONS.~~—Section
11 108(e)(3) of the Valles Caldera Preservation Act (16
12 U.S.C. 698v-6(e)(3)) is amended—

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

15 “(A) ~~IN GENERAL.~~—The Trust may not
16 dispose”;

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

19 “(B) ~~MAXIMUM DURATION.~~—The Trust”;

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

22 “(C) ~~TERMINATION.~~—The”; and

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

24 “(D) ~~EXCLUSIONS.~~—For the purposes of
25 this paragraph, the disposal of real property

1 does not include the sale or other disposal of
 2 forage, forest products, or marketable renew-
 3 able resources.”.

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

7 (1) in the first sentence, by striking “The Sec-
 8 retary” and inserting the following:

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

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

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

13 (3) by striking “At the request of the Trust”
 14 and all that follows through the end of the para-
 15 graph and inserting the following:

16 “(2) FIRE MANAGEMENT.—To the extent gen-
 17 erally authorized at other units of the National For-
 18 est System, the Secretary shall provide, under a co-
 19 operative agreement entered into between the Sec-
 20 retary and the Trust—

21 “(A) fire suppression and rehabilitation
 22 services; and

23 “(B) wildland fire severity funding for ex-
 24 traordinary fire preparedness.”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Valles Caldera Preserva-*
 3 *tion Act of 2004”.*

4 **SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVA-**
 5 **TION ACT.**

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

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

11 “(1) *IN GENERAL.—The acquisition*”;

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

14 “(2) *ACQUISITION.—The Secretary*”;

15 (3) *by striking “on a willing seller basis”;*

16 (4) *by striking “Any such” and inserting the fol-*
 17 *lowing:*

18 “(3) *ADMINISTRATION.—Any such*”; and

19 (5) *by adding at the end the following:*

20 “(4) *AVAILABLE FUNDS.—Any such interests*
 21 *shall be acquired with available funds.*

22 “(5) *DECLARATION OF TAKING.—*

23 “(A) *IN GENERAL.—If negotiations to ac-*
 24 *quire the interests are unsuccessful by the date*
 25 *that is 60 days after the date of enactment of*
 26 *this paragraph, the Secretary shall acquire the*

1 *interests pursuant to section 3114 of title 40,*
 2 *United States Code.*

3 “(B) *SOURCE OF FUNDS.—Any difference*
 4 *between the sum of money estimated to be just*
 5 *compensation by the Secretary and the amount*
 6 *awarded shall be paid from the permanent judg-*
 7 *ment appropriation under section 1304 of title*
 8 *31, United States Code.”.*

9 (b) *OBLIGATIONS AND EXPENDITURES.—Section*
 10 *106(e) of the Valles Caldera Preservation Act (16 U.S.C.*
 11 *698v-4(e)) is amended by adding at the end the following:*

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

15 “(A) *the character of, and the necessity for,*
 16 *any obligations and expenditures of the Trust;*
 17 *and*

18 “(B) *the manner in which obligations and*
 19 *expenditures shall be incurred, allowed, and*
 20 *paid.”.*

21 (c) *SOLICITATION OF DONATIONS.—Section 106(g) of*
 22 *the Valles Caldera Preservation Act (16 U.S.C. 698v-4(g))*
 23 *is amended by striking “The Trust may solicit” and insert-*
 24 *ing “The members of the Board of Trustees, the executive*
 25 *director, and 1 additional employee of the Trust in an exec-*

1 *utive position designated by the Board of Trustees or the*
 2 *executive director may solicit”.*

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

9 **SEC. 3. BOARD OF TRUSTEES.**

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

12 (1) *in paragraph (2), by striking “Trustees” and*
 13 *inserting “Except as provided in paragraph (3),*
 14 *trustees”;* and

15 (2) *in paragraph (3)—*

16 (A) *by striking “Trustees” and inserting the*
 17 *following:*

18 “(A) *SELECTION.*—*Trustees”;* and

19 (B) *by adding at the end the following:*

20 “(B) *COMPENSATION.*—*On request of the*
 21 *chair, the chair may be compensated at a rate*
 22 *determined by the Board of Trustees, but not to*
 23 *exceed the daily equivalent of the annual rate of*
 24 *pay for level IV of the Executive Schedule under*
 25 *section 5315 of title 5, United States Code, for*

1 *each day (including travel time) in which the*
 2 *chair is engaged in the performance of duties of*
 3 *the Board of Trustees.*

4 “(C) *MAXIMUM RATE OF PAY.*—*The total*
 5 *amount of compensation paid to the chair for a*
 6 *fiscal year under subparagraph (B) shall not ex-*
 7 *ceed 25 percent of the annual rate of pay for*
 8 *level IV of the Executive Schedule under section*
 9 *5315 of title 5, United States Code.”.*

10 **SEC. 4. RESOURCE MANAGEMENT.**

11 (a) *PROPERTY DISPOSAL LIMITATIONS.*—*Section*
 12 *108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C.*
 13 *698v-6(c)(3)) is amended—*

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

16 “(A) *IN GENERAL.*—*The Trust may not dis-*
 17 *pose”;*

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

20 “(B) *MAXIMUM DURATION.*—*The Trust”;*

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

23 “(C) *TERMINATION.*—*The”;* *and*

24 (4) *by adding at the end the following:*

1 “(D) *EXCLUSIONS.*—*For the purposes of*
2 *this paragraph, the disposal of real property does*
3 *not include the sale or other disposal of forage,*
4 *forest products, or marketable renewable re-*
5 *sources.”.*

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

9 (1) *in the first sentence, by striking “The Sec-*
10 *retary” and inserting the following:*

11 “(1) *LAW ENFORCEMENT.*—

12 “(A) *IN GENERAL.*—*The Secretary”;*

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

15 “(B) *FEDERAL AGENCY.*—*The Trust”;* and

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

19 “(2) *FIRE MANAGEMENT.*—

20 “(A) *NON-REIMBURSABLE SERVICES.*—

21 “(i) *DEVELOPMENT OF PLAN.*—*The*
22 *Secretary shall, in consultation with the*
23 *Trust, develop a plan to carry out fire pre-*
24 *paredness, suppression, and emergency re-*
25 *habilitation services on the Preserve.*

1 “(ii) *CONSISTENCY WITH MANAGEMENT*
2 *PROGRAM.—The plan shall be consistent*
3 *with the management program developed*
4 *pursuant to subsection (d).*

5 “(iii) *COOPERATIVE AGREEMENT.—To*
6 *the extent generally authorized at other*
7 *units of the National Forest System, the*
8 *Secretary shall provide the services to be*
9 *carried out pursuant to the plan under a*
10 *cooperative agreement entered into between*
11 *the Secretary and the Trust.*

12 “(B) *REIMBURSABLE SERVICES.—To the ex-*
13 *tent generally authorized at other units of the*
14 *National Forest System, the Secretary may pro-*
15 *vide presuppression and nonemergency rehabili-*
16 *tation and restoration services for the Trust at*
17 *any time on a reimbursable basis.”.*

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A BILL

To amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

MAY 20, 2004

Reported with an amendment