

STATEMENT OF JAMES R. LYONS
UNDER SECRETARY OF AGRICULTURE
FOR NATURAL RESOURCES AND ENVIRONMENT

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

ON S. 1892
A BILL TO AUTHORIZE THE ACQUISITION OF THE BACA RANCH
IN THE STATE OF NEW MEXICO

March 10, 2000

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear before this Committee to express the Administration's strong support for S. 1892, a bill to authorize the Federal acquisition of the Baca Ranch in New Mexico. I am accompanied today by Eleanor Towns, Regional Forester of the Forest Service's Southwest Region.

Over the last two years, the Administration has worked closely with the staffs of Senators Domenici and Bingaman on S. 1892, as well as its predecessor bill in the 105th Congress, S. 2621. We strongly support S. 1892 which will secure for this and future generations of Americans the Baca Ranch in New Mexico, one of the nation's unique natural areas. In addition, the bill would authorize the Bureau of Land Management (BLM) to identify and offer for sale certain lands which are appropriate for disposal, and to use the proceeds from those sales to acquire inholdings within federally managed areas in the west.

Today, I will discuss Title I of S. 1892, which provides for the acquisition and subsequent special management of the Baca Ranch, while Mr. Larry Finfer of the BLM will speak on Title II, which provides new disposal authorities for certain lands administered by the BLM. We offer the Administration's assistance in crafting several minor amendments to the bill.

TITLE I: ACQUISITION AND MANAGEMENT OF THE BACA RANCH

Resources of the Baca Ranch

The Baca Ranch, historically referred to as the Baca Location No. 1, was originally patented into private ownership based on an 1860 Congressional land grant. It consists of approximately 95,000 acres lying in the heart of the Jemez Mountains in northern New Mexico. Located near Los Alamos and within an hour driving distance of Albuquerque and Santa Fe, the property is accessible to the large population centers in New Mexico.

The Baca Ranch boasts incomparable scenic beauty, wildlife, fisheries, and recreation potential. The headwaters of the Jemez Wild and Scenic River originate on the Baca Ranch, as well as San Antonio Creek, both of which have outstanding fishery resources. Wildlife abounds, and the land offers opportunities for solitude and is a source of spiritual renewal for all Americans, and particularly for Native Americans who have special religious and cultural ties to the land.

The land has a violent geologic past. Over 1.2 million years ago, two cataclysmic volcanic eruptions blew cubic miles of material into the atmosphere. The resulting collapse of the volcanic dome created a large crater called a caldera. Today, the spectacular scenic and geological focal point of the Baca Ranch is the Valles Caldera which is approximately 15 miles in diameter. The mountains surrounding the Valles Caldera rise to a height of 3000 feet above the valley floor. Hot springs, gas vents, and volcanic domes are present day evidence of this volcanic activity.

The Baca Ranch is one of the most significant privately owned inholdings within the National Forest System. As the map of the Santa Fe National Forest clearly shows, it is literally the jewel in the crown virtually surrounded by federal land including the Santa Fe National Forest, the Jemez National Recreation Area, and the Bandelier National Monument.

The ecological significance of the Baca Ranch can hardly be overstated. Because of its sheer size and variety of resources, the Baca Ranch dominates the common ecosystem of the Jemez Mountains. Geographically and ecologically, the Baca Ranch ties together the adjacent Federal lands and profoundly influences their resources. For example, wildlife populations do not respect property boundaries and the elk within the Baca Ranch now roam between public and private land. Over-populations of elk on the Baca Ranch can damage the adjacent Jemez National Recreation Area and the Bandelier National Monument. Similarly, waters originating within the Baca Ranch profoundly effect downstream areas.

If kept intact in common ownership, the Baca Ranch will unite the Jemez Mountain ecosystem enabling cooperative and consistent management. However, if the Baca Ranch becomes fragmented and sold into numerous privately owned parcels, this consistent management may be rendered impossible. The long range effects of such fragmentation would be potentially and profoundly adverse to the management and protection of not only the Baca Ranch itself, but of the adjacent Federal lands.

It has been the Administration's goal to protect that which is the best and most unique of our Nation's natural heritage. That is certainly the case with the Baca Ranch. However, today's efforts are not the first Federal attempts to acquire the Baca Ranch. As early as the 1930's, the National Park Service recognized the outstanding values of the Baca Ranch. In the early 1960's, legislation was proposed to acquire the Baca Ranch for management in part as a national park and in part as a national forest. In 1980, the federal government again attempted to acquire the property only to be unsuccessful due to the untimely death of the owner, Patrick Dunigan. Since 1962, the Dunigan Family has managed the Baca Ranch as a working ranch, and they have been good stewards of the land.

1993 Study of the Baca Ranch

In 1990, Congress enacted Public Law 101-556 which, among other things, directed the Forest Service to conduct a study of the Baca Ranch to address (1) "the scenic, geologic, recreational, timber, mineral, grazing and other multiple use attributes" and (2) the "options for Federal acquisition of the Baca Ranch...". The study entitled *Report on the Study of the Baca Location No. 1* (hereafter "*Study*") was completed in 1993, and a copy has been made available to each member of the Committee.

From the *Study*, even the armchair visitor to the Baca Ranch will note the incredible scenic and natural beauty of the land, and its resources. Without belaboring the obvious, consider this:

1. The Valles Caldera is one of the largest volcanic calderas in North America. The enormous depression was created by a gigantic eruption over a million years ago, and spans over 15 miles and is more than a half mile deep.
2. The Baca Ranch has incredible scenic beauty. Travelers on New Mexico Highway 4 can currently witness the pristine, undeveloped landscape comprising the vast expanse of Valles Caldera surrounded by forested mountains rising 3000 feet above the valley floor.
3. The Baca Ranch can support an exceptional range of recreational opportunities including world class hunting and fishing, skiing, camping, hiking, wildlife viewing and photography.

4. The vegetation on the Baca Ranch illustrates its high level of ecological diversity ranging from grasslands in the valleys, to forests of ponderosa pine, spruce-fir and aspen.
5. Fish and wildlife abound. The Baca Ranch contains the largest elk herd in New Mexico. Its many streams are some of the best cold water fisheries in North America.
6. Multiple use management can be sustained on the Baca Ranch without adversely affecting the scenic and natural qualities of the land. These uses include grazing and timber harvesting.

Forest Service Negotiations with the Dunigan Family

Although the Forest Service completed the *Study* in 1993, the Dunigan Family was not able to consider a sale of the ranch at that time. However, three years ago, members of the Dunigan family approached USDA representatives with the prospect that the ranch might be for sale. These prospects were communicated to the Office of the Secretary of Agriculture and the Council on Environmental Quality.

Based on past information culminating in the 1993 *Study*, the Administration had abundant data from which to conclude that acquisition of the Baca Ranch was one of its highest priorities. In the summer of 1998, the Secretary of Agriculture assembled an able team of professionals who have labored over 18 months to value the land, contract for its purchase, and work with the Congress in order to bring this effort to where we are today.

The Purchase Contract

As you are aware, the USDA acquisition team has negotiated a contract for the purchase of the Baca Ranch, and Congress has appropriated the \$101 million needed to complete the acquisition.

After completion of the appraisal review, the Forest Service offered to purchase the Baca Ranch from the Dunigan Family for \$101 million contingent on a purchase contract and Congressional authorization and approval. Additional testimony is being offered today on the adequacy of the appraisal and the propriety of the purchase price.

The Forest Service and the Dunigan Family entered into a purchase contract on October 27, 1999. The contract is relatively simple for such a large acquisition, calling for the sellers to convey all their rights, title and interest to the lands and waters. Special provisions were made to allow the sellers to honor grazing commitments made for the 2000 season. Other provisions provide for the cleanup of small landfills and other small sites. The Forest Service also secured the right to assign portions of the purchase to third parties to accommodate the special interests of Pueblo of Santa Clara. The contract calls for closing on the property by April 30, 2000.

Assignment to the Pueblo of Santa Clara

Concurrently with the Forest Service's negotiations with the Dunigan Family, discussions were underway with the Pueblo of Santa Clara who sought to purchase the northeast corner of the Baca Ranch, which is adjacent to their pueblo and contains the upper portion of the Santa Clara Creek which supplies the Pueblo's water. The Santa Clara Pueblo was motivated to enter into an assignment not only because of this geologic and ecological connection to the Pueblo, but also because of its historic, cultural, and religious attachment to this land.

On February 7, 2000, the Forest Service and the Santa Clara Pueblo reached agreement on the assignment of approximately 5045.53 acres of the northeast corner of the Baca Ranch comprising those lands within the watershed of Santa Clara Creek. The assignment also calls for reciprocal easements to protect the watershed boundary area from development and to provide for limited administrative access. The Pueblo agreed to pay the federally approved fair market value of \$4,466,000 toward the overall purchase of the Baca Ranch.

Van Court and Co., the appraisers who performed the appraisal for the Baca Ranch, conducted the appraisal of the assigned property interests on the basis of the contributory value of those interests to the overall appraised market value of the Baca Ranch. This appraisal was reviewed and approved by the same Forest Service review appraisers as had approved the full appraisal of the Ranch.

The boundary of the assignment is based on the principle that watersheds are most effectively managed as a single entity. The land to be assigned to the Pueblo is entirely within the watershed of the Santa Clara River, most of which is already held by the Pueblo. The remainder of the Baca Ranch, comprising almost 90,000 acres, will be acquired by the Forest Service including the entire Valles Caldera as well as all or parts of other watersheds. In addition, the easement agreed to by the Forest Service and the Santa Clara Pueblo ensures that there will be no development on either side of the boundary both to protect the land and to ensure that the view from either property will not be scarred with towers or other buildings. This easement also provides for mutual access to the easement area for administrative purposes and to simplify management.

THE VALLES CALDERA PRESERVE AND TRUST

S. 1892 provides for the designation of the Baca Ranch as the Valles Caldera National Preserve. The Preserve, which will become part of the National Forest System, will have many of the attributes of other Congressionally designated areas designed to assure the protection of important scenic and natural values. For example, the purposes of the bill

outlined in section 102 provide for the protection and preservation of the scientific, scenic, historic and natural values of the ranch and to provide for public recreation.

More significantly, S. 1892 will provide a unique management arrangement. The Baca Ranch will be managed by a Board of Trustees to be appointed by the President. The Bill requires that the Board Members represent a wide range of expertise to enable the Board to balance the competing resource demands on the land. Included on the 9 member Board of Trustees will be the Supervisor of the Santa Fe National Forest and the Superintendent of the Bandelier National Monument, as well as appointed Trustees from a nonprofit conservation organization and from state and local governments in New Mexico. Additionally, appointments will include persons with expertise in the livestock industry, game and fish management, sustainable forestry, financial management, and cultural and natural history. Except for the Trustees from the Forest and the Park, the Trustees will be appointed to 4 year terms with the terms of initial appointees being staggered to prevent a complete turnover of the Board at one time.

The Bill charges the Board of Trustees with managing the Baca Ranch as a working ranch, operating on a sustainable basis. Revenues derived from grazing and other uses will be retained for management of the Ranch. While some have expressed skepticism as to whether the Valles Caldera Trust can succeed in a financially sustainable operation that meets the many objectives of this legislation, the Administration believes that the Baca Ranch is sufficiently large and diverse a tract of land to test the approach without the risk of irreparable resource damage. And, most importantly, S. 1892 contains sufficient legal and institutional safeguards against resource damage. In the past, U.S.D.A. Natural Resources Conservation Service (NRCS) helped plan land stewardship practices that were used on the Baca Ranch. The Forest Service and NRCS will be happy to work in partnership with the Board of Trustees to build on the successes of those past practices.

The Administration is committed to ensuring the success of the new management approach: the Board of Trustees. If the Trust succeeds, it may prove a model for new and creative approaches to the management of areas with special resource capabilities. If the Trust is unsuccessful, the Congress has the option for modifying the management regime, or of having the Baca Ranch managed as a part of the Santa Fe National Forest.

Native American Issues

Portions of the Baca Ranch, particularly Redondo Peak, have historic, cultural and religious significance to Native American tribes and pueblos. In this respect, the Baca Ranch is similar to many millions of acres of Federal land elsewhere on the National Forest System. As with these other Federally owned forest lands, Native American rights on the Baca Ranch will be guaranteed under various statutes including the American Indian Religious Freedom Act, and the Archaeological Resources Protection Act.

The Administration supports the language in section 108(f)(5) of the bill which would allow the Forest Service or the Board of Trustees of The Valles Caldera Trust, as appropriate, to allow the use of lands for religious and cultural uses by Native Americans and to set aside places and times of exclusive use. This section is similar to statutory provisions applicable to the adjacent Jemez National Recreation Area. (*See*: 16 U.S.C. § 460jjj-1(d)).

Section 104(g) of S. 1892 would permit the Secretary of Agriculture to assign to the Pueblo of Santa Clara rights to acquire for fair market value portions of the Baca Ranch. As I have already noted, the Secretary has entered into a contract with the Pueblo assigning the rights to purchase approximately 5045 acres within the watershed of Santa Clara Creek.

The Administration recommends that section 104(g) be amended to ratify the existing assignment agreement with the Pueblo of Santa Clara. In addition, we understand the Pueblo wants the option to transfer the land it acquires to the Secretary of the Interior to be held in trust as a part of the Santa Clara Indian Reservation. The Department would support the addition of such a provision to the legislation, subject to the advice of the Department of the Interior.

Other Indian Pueblos have proposed to acquire certain lands within the Baca Ranch, particularly on Redondo Peak. The Administration believes there are already adequate legal provisions for assuring religious and cultural uses of Redondo Peak. We oppose further assignments of rights to acquire land within the Baca Ranch, particularly if such assignments would create inholdings. The existence of inholdings would likely cause continuing management conflict and confusion, and would also raise access issues for the Board of the Trust, the Pueblos, and the general public.

In contrast, we believe the assignment of rights to Santa Clara Pueblo to purchase abutting private land would promote good management of the watershed within the existing Santa Clara Indian Reservation. Moreover, the lands the Pueblo is acquiring are in a separate and distinct watershed that is ecologically separated from the rest of the Baca Ranch. Most importantly, Santa Clara's acquisition would not create inholdings within the Baca Ranch.

Bandelier National Monument Additions

In the 105th Congress, Public Law 105-376 expanded the boundaries of the Bandelier National Monument to encompass the Upper Alamo watershed including a small part of the Baca Ranch and some other privately owned lands. Under section 104(b) of S. 1892, those portions of the Baca Ranch within the expanded boundaries of the Bandelier National Monument will, upon Federal acquisition, automatically become part of the Monument under National Park Service administration. The bill also provides for cooperation between the Forest Service and the National Park Service in the preparation of a watershed management report for the Lower Alamo Watershed. This is an area immediately south of

the Baca Ranch within the Jemez National Recreation Area. The report would address alternatives to improve management of these lands, and is to be submitted to the appropriate committees of the Congress within four months of enactment of the bill. Due to the management workload we anticipate if the Baca Ranch is acquired, we suggest the Committee consider amending this requirement by expanding the reporting time to one year.

Minority Mineral Owner's Interests

The Forest Service recognizes that a total of 12 ½ % of the mineral interests underlying the Baca Ranch are held by owners other than the Dunigans. These owners are interested in selling these interests to the Forest Service.

First of all, we would like to point out that the minority mineral owners have held their interests for many years, during which time they have not chosen to develop these interests. Second, it is important to recognize that the acquisition of the Baca Ranch by the Forest Service in no way limits the property rights of these owners - they remain the same both before and after acquisition.

The Forest Service always seeks to obtain full, unencumbered title to the land it acquires, and wants to do so in this case. In fact, section 104(e) of S. 1892 requires that the Forest Service negotiate with the owners of the minority mineral interests, and offer to purchase the rights for their fair market value. The Forest Service has an additional incentive to acquire these minority mineral interests because section 105(e) of the bill provides that none of the Baca Ranch can be withdrawn from mineral development until these interests are acquired by the Forest Service.

However, until the Baca Ranch acquisition is complete, it would be imprudent to seek to purchase these minority interests, which without ownership of the Baca Ranch would be of no interest to the United States. If the Baca Ranch acquisition is completed, then the Forest Service would obtain an appraisal of these interests, for which there is a market and for which an objective value can therefore be determined. At that time, the minority mineral interest owners would have the same options for an appraisal as were available to the owners of the Baca Ranch, and would be able to ensure that any information they possess on the value of their interests would be appropriately considered by the appraiser. An offer to the minority interest owners would then be based on the appraised fair market value of these interests, just as has been done with the Dunigans.

SUMMARY AND CONCLUSIONS

In conclusion, the Administration strongly supports enactment of Title I of S. 1892. Mr. Finfer of the Bureau of Land Management will address the Administration's support for Title II of S. 1892, referred to as "The Federal Land Transaction Facilitation Act."

Your consideration of our proposed amendments will be appreciated. We look forward to working with the Committee on S. 1892. Thank you.