

106TH CONGRESS
2D SESSION

S. 2917

To settle the land claims of the Pueblo of Santo Domingo.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2000

Mr. DOMENICI (for himself and Mr. INOUE) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To settle the land claims of the Pueblo of Santo Domingo.

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 “Santo Domingo Pueblo
5 Claims Settlement Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) For many years the Pueblo of Santo Do-
10 mingo has been asserting claims to lands within its
11 aboriginal use area in north central New Mexico.
12 These claims have been the subject of many law-

1 suits, and a number of these claims remain unre-
2 solved.

3 (2) In December 1927, the Pueblo Lands
4 Board, acting pursuant to the Pueblo Lands Act of
5 1924 (43 Stat. 636) confirmed a survey of the
6 boundaries of the Pueblo of Santo Domingo Grant.
7 However, at the same time the Board purported to
8 extinguish Indian title to approximately 27,000
9 acres of lands within those grant boundaries which
10 lay within 3 other overlapping Spanish land grants.
11 The United States Court of Appeals in *United*
12 *States v. Thompson* (941 F.2d 1074 (10th Cir.
13 1991), cert. denied 503 U.S. 984 (1992)), held that
14 the Board “ignored an express congressional direc-
15 tive” in section 14 of the Pueblo Lands Act, which
16 “contemplated that the Pueblo would retain title to
17 and possession of all overlap land”.

18 (3) The Pueblo of Santo Domingo has asserted
19 a claim to another 25,000 acres of land based on the
20 Pueblo’s purchase in 1748 of the Diego Gallegos
21 Grant. The Pueblo possesses the original deed re-
22 flecting the purchase under Spanish law but, after
23 the United States assumed sovereignty over New
24 Mexico, no action was taken to confirm the Pueblo’s
25 title to these lands. Later, many of these lands were

1 treated as public domain, and are held today by
2 Federal agencies, the State Land Commission, other
3 Indian tribes, and private parties. The Pueblo's law-
4 suit asserting this claim, Pueblo of Santo Domingo
5 v. Rael (Civil No. 83–1888 (D.N.M.)), is still pend-
6 ing.

7 (4) The Pueblo of Santo Domingo's claims
8 against the United States in docket No. 355 under
9 the Act of August 13, 1946 (60 Stat. 1049; com-
10 monly referred to as the Indian Claims Commission
11 Act) have been pending since 1951. These claims in-
12 clude allegations of the Federal misappropriation
13 and mismanagement of the Pueblo's aboriginal and
14 Spanish grant lands.

15 (5) Litigation to resolve the land and trespass
16 claims of the Pueblo of Santo Domingo would take
17 many years, and the outcome of such litigation is
18 unclear. The pendency of these claims has clouded
19 private land titles and has created difficulties in the
20 management of public lands within the claim area.

21 (6) The United States and the Pueblo of Santo
22 Domingo have negotiated a settlement to resolve all
23 existing land claims, including the claims described
24 in paragraphs (2) through (4).

25 (b) PURPOSE.—It is the purpose of this Act—

1 (1) to remove the cloud on titles to land in the
2 State of New Mexico resulting from the claims of
3 the Pueblo of Santo Domingo, and to settle all of
4 the Pueblo's claims against the United States and
5 third parties, and the land, boundary, and trespass
6 claims of the Pueblo in a fair, equitable, and final
7 manner;

8 (2) to provide for the restoration of certain
9 lands to the Pueblo of Santo Domingo and to con-
10 firm the Pueblo's boundaries;

11 (3) to clarify governmental jurisdiction over the
12 lands within the Pueblo's land claim area; and

13 (4) to ratify a Settlement Agreement between
14 the United States and the Pueblo which includes—

15 (A) the Pueblo's agreement to relinquish
16 and compromise its land and trespass claims;

17 (B) the provision of \$8,000,000 to com-
18 pensate the Pueblo for the claims it has pur-
19 sued pursuant to the Act of August 13, 1946
20 (60 Stat. 1049; commonly referred to as the In-
21 dian Claims Commission Act);

22 (C) the transfer of approximately 4,577
23 acres of public land to the Pueblo;

24 (D) the sale of approximately 7,355 acres
25 of national forest lands to the Pueblo; and

1 (E) the authorization of the appropriation
 2 of \$15,000,000 over 3 consecutive years which
 3 would be deposited in a Santo Domingo Lands
 4 Claims Settlement Fund for expenditure by the
 5 Pueblo for land acquisition and other enumer-
 6 ated tribal purposes.

7 (c) RULE OF CONSTRUCTION.—Nothing in this Act
 8 shall be construed to effectuate an extinguishment of, or
 9 to otherwise impair, the Pueblo’s title to or interest in
 10 lands or water rights as described in section 5(a)(2).

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) FEDERALLY ADMINISTERED LANDS.—The
 14 term “federally administered lands” means lands,
 15 waters, or interests therein, administered by Federal
 16 agencies, except for the lands, waters, or interests
 17 therein that are owned by, or for the benefit of, In-
 18 dian tribes or individual Indians.

19 (2) FUND.—The term “Fund” means the Pueb-
 20 lo of Santo Domingo Land Claims Settlement Fund
 21 established under section 5(b)(1).

22 (3) PUEBLO.—The term “Pueblo” means the
 23 Pueblo of Santo Domingo.

24 (4) SANTO DOMINGO PUEBLO GRANT.—The
 25 term “Santo Domingo Pueblo Grant” means all of

1 the lands within the 1907 Hall-Joy Survey, as con-
 2 firmed by the Pueblo Lands Board in 1927.

3 (5) SECRETARY.—The term “Secretary” means
 4 the Secretary of the Interior unless expressly stated
 5 otherwise.

6 (6) SETTLEMENT AGREEMENT.—The term
 7 “Settlement Agreement” means the Settlement
 8 Agreement dated May 26, 2000, between the De-
 9 partments of the Interior, Agriculture, and Justice
 10 and the Pueblo of Santo Domingo to Resolve All of
 11 the Pueblo’s Land Title and Trespass Claims.

12 **SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.**

13 The Settlement Agreement is hereby approved and
 14 ratified.

15 **SEC. 5. RESOLUTION OF DISPUTES AND CLAIMS.**

16 (a) RELINQUISHMENT, EXTINGUISHMENT, AND COM-
 17 PROMISE OF SANTO DOMINGO CLAIMS.—

18 (1) EXTINGUISHMENT.—

19 (A) IN GENERAL.—Subject to paragraph
 20 (2), in consideration of the benefits provided
 21 under this Act, and in accordance with the Set-
 22 tlement Agreement pursuant to which the
 23 Pueblo has agreed to relinquish and com-
 24 promise certain claims, the Pueblo’s land and
 25 trespass claims described in subparagraph (B)

are hereby extinguished, effective as of the date specified in paragraph (5).

(B) CLAIMS.—The claims described in this subparagraph are the following:

(i) With respect to the Pueblo's claims against the United States, its agencies, officers, and instrumentalities, all claims to land, whether based on aboriginal or recognized title, and all claims for damages or other judicial relief or for administrative remedies pertaining in any way to the Pueblo's land, such as boundary, trespass, and mismanagement claims, including any claim related to—

(I) any federally administered lands, including National Forest System lands designated in the Settlement Agreement for possible sale or exchange to the Pueblo;

(II) any lands owned or held for the benefit of any Indian tribe other than the Pueblo; and

(III) all claims which were, or could have been brought against the United States in docket No. 355,

pending in the United States Court of
Federal Claims.

(ii) With respect to the Pueblo's
claims against persons, the State of New
Mexico and its subdivisions, and Indian
tribes other than the Pueblo, all claims to
land, whether based on aboriginal or recog-
nized title, and all claims for damages or
other judicial relief or for administrative
remedies pertaining in any way to the
Pueblo's land, such as boundary and tres-
pass claims.

(iii) All claims listed on pages 13894–
13895 of volume 48 of the Federal Reg-
ister, published on March 31, 1983, except
for claims numbered 002 and 004.

(2) RULE OF CONSTRUCTION.—Nothing in this
Act (including paragraph (1)) shall be construed—

(A) to in any way effectuate an extinguish-
ment of or otherwise impair—

(i) the Pueblo's title to lands acquired
by or for the benefit of the Pueblo since
December 28, 1927, or in a tract of land
of approximately 150.14 acres known as
the “sliver area” and described on a plat

1 which is appendix H to the Settlement
2 Agreement;

3 (ii) the Pueblo's title to land within
4 the Santo Domingo Pueblo Grant which
5 the Pueblo Lands Board found not to have
6 been extinguished; or

7 (iii) the Pueblo's water rights appur-
8 tenant to the lands described in clauses (i)
9 and (ii); and

10 (B) to expand, reduce, or otherwise impair
11 any rights which the Pueblo or its members
12 may have under existing Federal statutes con-
13 cerning religious and cultural access to and
14 uses of the public lands.

15 (3) CONFIRMATION OF DETERMINATION.—The
16 Pueblo Lands Board's determination on page 1 of
17 its Report of December 28, 1927, that Santo Do-
18 mingo Pueblo title, derived from the Santo Domingo
19 Pueblo Grant to the lands overlapped by the La
20 Majada, Sitio de Juana Lopez and Mesita de Juana
21 Lopez Grants has been extinguished is hereby con-
22 firmed as of the date of that Report.

23 (4) TRANSFERS PRIOR TO ENACTMENT.—

24 (A) IN GENERAL.—In accordance with the
25 Settlement Agreement, any transfer of land or

1 natural resources, prior to the date of enact-
2 ment of this Act, located anywhere within the
3 United States from, by, or on behalf of the
4 Pueblo, or any of the Pueblo's members, shall
5 be deemed to have been made in accordance
6 with the Act of June 30, 1834 (4 Stat. 729;
7 commonly referred to as the Trade and Inter-
8 course Act), section 17 of the Act of June 7,
9 1924 (43 Stat. 641; commonly referred to as
10 the Pueblo Lands Act), and any other provision
11 of Federal law that specifically applies to trans-
12 fers of land or natural resources from, by, or on
13 behalf of an Indian tribe, and such transfers
14 shall be deemed to be ratified effective as of the
15 date of the transfer.

16 (B) RULE OF CONSTRUCTION.—Nothing in
17 subparagraph (A) shall be construed to affect
18 or eliminate the personal claim of any indi-
19 vidual Indian which is pursued under any law
20 of general applicability that protects non-Indi-
21 ans as well as Indians.

22 (5) EFFECTIVE DATE.—The provisions of para-
23 graphs (1), (3), and (4) shall take effect upon the
24 entry of a compromise final judgment, in a form and
25 manner acceptable to the Attorney General, in the

1 amount of \$8,000,000 in the case of Pueblo of
2 Santo Domingo v. United States (Indian Claims
3 Commission docket No. 355). The judgment so en-
4 tered shall be paid from funds appropriated pursu-
5 ant to section 1304 of title 31, United States Code.

6 (b) TRUST FUNDS; AUTHORIZATION OF APPROPRIA-
7 TIONS.—

8 (1) ESTABLISHMENT.—There is hereby estab-
9 lished in the Treasury a trust fund to be known as
10 the “Pueblo of Santo Domingo Land Claims Settle-
11 ment Fund”. Funds deposited in the Fund shall be
12 subject to the following conditions:

13 (A) The Fund shall be maintained and in-
14 vested by the Secretary of the Interior pursuant
15 to the Act of June 24, 1938 (25 U.S.C. 162a).

16 (B) Subject to the provisions of paragraph
17 (3), monies deposited into the Fund may be ex-
18 pended by the Pueblo to acquire lands within
19 the exterior boundaries of the exclusive aborigi-
20 nal occupancy area of the Pueblo, as described
21 in the Findings of Fact of the Indian Claims
22 Commission, dated May 9, 1973, and for use
23 for education, economic development, youth and
24 elderly programs, or for other tribal purposes in
25 accordance with plans and budgets developed

1 and approved by the Tribal Council of the
2 Pueblo and approved by the Secretary.

3 (C) If the Pueblo withdraws monies from
4 the Fund, neither the Secretary nor the Sec-
5 retary of the Treasury shall retain any over-
6 sight over or liability for the accounting, dis-
7 bursement, or investment of such withdrawn
8 monies.

9 (D) No portion of the monies described in
10 subparagraph (C) may be paid to Pueblo mem-
11 bers on a per capita basis.

12 (E) The acquisition of lands with monies
13 from the Fund shall be on a willing-seller, will-
14 ing-buyer basis, and no eminent domain author-
15 ity may be exercised for purposes of acquiring
16 lands for the benefit of the Pueblo pursuant to
17 this Act.

18 (F) The provisions of Public Law 93–134,
19 governing the distribution of Indian claims
20 judgment funds, and the plan approval require-
21 ments of section 203 of Public Law 103–412
22 shall not be applicable to the Fund.

23 (2) AUTHORIZATION OF APPROPRIATIONS.—
24 There are authorized to be appropriated

1 \$15,000,000 for deposit into the Fund, in accord-
2 ance with the following schedule:

3 (A) \$5,000,000 to be deposited in the fis-
4 cal year which commences on October 1, 2001.

5 (B) \$5,000,000 to be deposited in the next
6 fiscal year.

7 (C) The balance of the funds to be depos-
8 ited in the third consecutive fiscal year.

9 (3) LIMITATION ON DISBURSAL.—Amounts au-
10 thorized to be appropriated to the Fund under para-
11 graph (2) shall not be disbursed until the following
12 conditions are met:

13 (A) The case of Pueblo of Santo Domingo
14 v. Rael (No. CIV–83–1888) in the United
15 States District Court for the District of New
16 Mexico, has been dismissed with prejudice.

17 (B) A compromise final judgment in the
18 amount of \$8,000,000 in the case of Pueblo of
19 Santo Domingo v. United States (Indian Claims
20 Commission docket No. 355) in a form and
21 manner acceptable to the Attorney General, has
22 been entered in the United States Court of
23 Federal Claims in accordance with subsection
24 (a)(5).

1 (4) DEPOSITS.—Funds awarded to the Pueblo
2 consistent with subsection (c)(2) in docket No. 355
3 of the Indian Claims Commission shall be deposited
4 into the Fund.

5 (c) ACTIVITIES UPON COMPROMISE.—On the date of
6 the entry of the final compromise judgment in the case
7 of Pueblo of Santo Domingo v. United States (Indian
8 Claims Commission docket No. 355) in the United States
9 Court of Federal Claims, and the dismissal with prejudice
10 of the case of Pueblo of Santo Domingo v. Rael (No. CIV–
11 83–1888) in the United States District Court for the Dis-
12 trict of New Mexico, whichever occurs later—

13 (1) the public lands administered by the Bureau
14 of Land Management and described in section 6 of
15 the Settlement Agreement, and consisting of ap-
16 proximately 4,577.10 acres of land, shall thereafter
17 be held by the United States in trust for the benefit
18 of the Pueblo, subject to valid existing rights and
19 rights of public and private access, as provided for
20 in the Settlement Agreement;

21 (2) the Secretary of Agriculture is authorized to
22 sell and convey National Forest System lands and
23 the Pueblo shall have the exclusive right to acquire
24 these lands as provided for in section 7 of the Settle-
25 ment Agreement, and the funds received by the Sec-

1 retary of Agriculture for such sales shall be depos-
2 ited in the fund established under the Act of Decem-
3 ber 4, 1967 (16 U.S.C. 484a) and shall be available
4 to purchase non-Federal lands within or adjacent to
5 the National Forests in the State of New Mexico;

6 (3) lands conveyed by the Secretary of Agri-
7 culture pursuant to this section shall no longer be
8 considered part of the National Forest System and
9 upon any conveyance of National Forest lands, the
10 boundaries of the Santa Fe National Forest shall be
11 deemed modified to exclude such lands;

12 (4) until the National Forest lands are con-
13 veyed to the Pueblo pursuant to this section, or until
14 the Pueblo's right to purchase such lands expires
15 pursuant to section 7 of the Settlement Agreement,
16 such lands are withdrawn, subject to valid existing
17 rights, from any new public use or entry under any
18 Federal land law, except for permits not to exceed
19 1 year, and shall not be identified for any disposition
20 by or for any agency, and no mineral production or
21 harvest of forest products shall be permitted, except
22 that nothing in this subsection shall preclude forest
23 management practices on such lands, including the
24 harvest of timber in the event of fire, disease, or in-
25 sect infestation; and

1 (5) once the Pueblo has acquired title to the
2 former National Forest System lands, these lands
3 may be conveyed by the Pueblo to the Secretary of
4 the Interior who shall accept and hold such lands in
5 the name of the United States in trust for the ben-
6 efit of the Pueblo.

7 **SEC. 6. AFFIRMATION OF ACCURATE BOUNDARIES OF**
8 **SANTO DOMINGO PUEBLO GRANT.**

9 (a) IN GENERAL.—The boundaries of the Santo Do-
10 mingo Pueblo Grant, as determined by the 1907 Hall-Joy
11 Survey, confirmed in the Report of the Pueblo Lands
12 Board, dated December 28, 1927, are hereby declared to
13 be the current boundaries of the Grant and any lands cur-
14 rently owned by or on behalf of the Pueblo within such
15 boundaries, or any lands hereinafter acquired by the Pueb-
16 lo within the Grant in fee simple absolute, shall be consid-
17 ered to be Indian country within the meaning of section
18 1151 of title 18, United States Code.

19 (b) LIMITATION.—Any lands or interests in lands
20 within the Santo Domingo Pueblo Grant, that are not
21 owned or acquired by the Pueblo, shall not be treated as
22 Indian country within the meaning of section 1151 of title
23 18, United States Code.

24 (c) ACQUISITION OF FEDERAL LANDS.—Any Federal
25 lands acquired by the Pueblo pursuant to section 5(c)(1)

1 shall be held in trust by the Secretary for the benefit of
2 the Pueblo, and shall be treated as Indian country within
3 the meaning of section 1151 of title 18, United States
4 Code.

5 (d) LAND SUBJECT TO PROVISIONS.—Any lands ac-
6 quired by the Pueblo pursuant to section 5(c), or with
7 funds subject to section 5(b), shall be subject to the provi-
8 sions of section 17 of the Act of June 7, 1924 (43 Stat.
9 641; commonly referred to as the Pueblo Lands Act).

10 (e) RULE OF CONSTRUCTION.—Nothing in this Act
11 or in the Settlement Agreement shall be construed to—

12 (1) cloud title to federally administered lands or
13 non-Indian or other Indian lands, with regard to
14 claims of title which are extinguished pursuant to
15 section 5; or

16 (2) affect actions taken prior to the date of en-
17 actment of this Act to manage federally adminis-
18 tered lands within the boundaries of the Santo Do-
19 mingo Pueblo Grant.

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