

Calendar No. 651109TH CONGRESS
2^D SESSION**S. 3648****[Report No. 109-354]**

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2006

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

SEPTEMBER 29, 2006

Reported by Mr. MCCAIN, without amendment

A BILL

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pueblo of Isleta Settle-
3 ment and Natural Resources Restoration Act of 2006”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) there is pending before the United States
7 Court of Federal Claims a civil action filed by the
8 Pueblo against the United States in which the Pueb-
9 lo seeks to recover damages pursuant to the Isleta
10 Jurisdictional Act;

11 (2) the Pueblo and the United States, after a
12 diligent investigation of the Pueblo claims, have ne-
13 gotiated a Settlement Agreement, the validity and
14 effectiveness of which is contingent on the enact-
15 ment of enabling legislation;

16 (3) certain land of the Pueblo is waterlogged,
17 and it would be to the benefit of the Pueblo and
18 other water users to drain the land and return water
19 to the Rio Grande River; and

20 (4) there is Pueblo forest land in need of reme-
21 diation in order to improve timber yields, reduce the
22 threat of fire, reduce erosion, and improve grazing
23 conditions.

24 (b) PURPOSES.—The purposes of this Act are—

1 (1) to improve the drainage of the irrigated
2 land, the health of the forest land, and other natural
3 resources of the Pueblo; and

4 (2) to settle all claims that were raised or could
5 have been raised by the Pueblo against the United
6 States under the Isleta Jurisdictional Act in accord-
7 ance with section 5.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) ISLETA JURISDICTIONAL ACT.—The term
11 “Isleta Jurisdictional Act” means Public Law 104–
12 198 (110 Stat. 2418).

13 (2) PUEBLO.—The term “Pueblo” means the
14 Pueblo of Isleta, a federally-recognized Indian tribe.

15 (3) RESTORATION FUND.—The term “Restora-
16 tion Fund” means the Pueblo of Isleta Natural Re-
17 sources Restoration Fund established by section
18 4(a).

19 (4) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (5) SETTLEMENT AGREEMENT.—The term
22 “Settlement Agreement” means the Agreement of
23 Compromise and Settlement entered into between
24 the United States and the Pueblo dated July 12,
25 2005, as modified by the Extension and Modification

1 Agreement executed by the United States and the
2 Pueblo on June 22, 2006, to settle the claims of the
3 Pueblo in Docket No. 98–166L, a case pending in
4 the United States Court of Federal Claims.

5 **SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RES-**
6 **TORATION TRUST FUND.**

7 (a) ESTABLISHMENT.—There is established in the
8 Treasury of the United States a trust fund, to be known
9 as the “Pueblo of Isleta Natural Resources Restoration
10 Fund”, consisting of—

11 (1) such amounts as are transferred to the Res-
12 toration Fund under subsection (b); and

13 (2) any interest earned on investment of
14 amounts in the Restoration Fund under subsection
15 (d).

16 (b) TRANSFERS TO RESTORATION FUND.—Upon
17 entry of the final judgment described in section 5(b), there
18 shall be transferred to the Restoration Fund, in accord-
19 ance with conditions specified in the Settlement Agree-
20 ment and this Act—

21 (1) \$32,838,750 from the permanent judgment
22 appropriation established pursuant to section 1304
23 of title 31, United States Code; and

24 (2) in addition to the amounts transferred
25 under paragraph (1), at such times and in such

1 amounts as are specified for that purpose in the an-
2 nual budget of the Department of the Interior, au-
3 thorized to be appropriated by subsection (f), and
4 made available by an Act of appropriation, a total of
5 \$7,200,000.

6 (c) DISTRIBUTION OF AMOUNTS FROM RESTORA-
7 TION FUND.—

8 (1) APPROPRIATED AMOUNTS.—

9 (A) IN GENERAL.—Subject to paragraph
10 (3), upon the request of the Pueblo, the Sec-
11 retary shall distribute amounts deposited in the
12 Restoration Fund pursuant to section V of the
13 Settlement Agreement and subsection (b)(2), in
14 accordance with the terms and conditions of the
15 Settlement Agreement and this Act, on the con-
16 dition that the Secretary, before any such dis-
17 tribution, receives from the Pueblo such assur-
18 ances as are satisfactory to the Secretary
19 that—

20 (i) the Pueblo shall deliver funds in
21 the amount of \$7,100,000 toward drainage
22 and remediation of the agricultural land
23 and rehabilitation of forest and range land
24 of the Pueblo in accordance with section

1 IV(C) and IV(D) of the Settlement Agree-
2 ment; and

3 (ii) those funds shall be available for
4 expenditure for drainage and remediation
5 expenses as provided in sections IV(C) and
6 IV(D) of the Settlement Agreement on the
7 dates on which the Secretary makes dis-
8 tributions, and in amounts equal to the
9 amounts so distributed, in accordance with
10 sections IV(A) and IV(B) of the Settle-
11 ment Agreement.

12 (B) USE OF FUNDS.—Of the amounts dis-
13 tributed by the Secretary from the Restoration
14 Fund under subparagraph (A)—

15 (i) \$5,700,000 shall be available to
16 the Pueblo for use in carrying out the
17 drainage and remediation of approximately
18 1,081 acres of waterlogged agricultural
19 land, as described in section IV(A) of the
20 Settlement Agreement; and

21 (ii) \$1,500,000 shall be available to
22 the Pueblo for use in carrying out the re-
23 habilitation and remediation of forest and
24 range land, as described in section IV(B)
25 of the Settlement Agreement.

1 (C) FEDERAL CONSULTATION.—Restora-
2 tion work carried out using funds distributed
3 under this paragraph shall be planned and per-
4 formed in consultation with—

- 5 (i) the Bureau of Indian Affairs; and
6 (ii) such other Federal agencies as are
7 necessary.

8 (D) UNUSED FUNDS.—Any funds, includ-
9 ing any interest income, that are distributed
10 under this paragraph but that are not needed
11 to carry out this paragraph shall be available
12 for use in accordance with paragraph (2)(A).

13 (2) AMOUNTS FROM JUDGMENT FUND.—

14 (A) IN GENERAL.—Subject to paragraph
15 (3), the amount paid into the Restoration Fund
16 under subsection (b)(1), and interest income re-
17 sulting from investment of that amount, shall
18 be available to the Pueblo for—

- 19 (i) the acquisition, restoration, im-
20 provement, development, and protection of
21 land, natural resources, and cultural re-
22 sources within the exterior boundaries of
23 the Pueblo, including improvements to the
24 water supply and sewage treatment facili-
25 ties of the Pueblo; and

1 (ii) for the payment and reimburse-
2 ment of attorney and expert witness fees
3 and expenses incurred in connection with
4 Docket No. 98–166L of the United States
5 Court of Federal Claims, as provided in
6 the Settlement Agreement.

7 (B) NO CONTINGENCY ON PROVISION OF
8 FUNDS BY PUEBLO.—The receipt and use of
9 funds by the Pueblo under this paragraph shall
10 not be contingent upon the provision by the
11 Pueblo of the funds described in paragraph
12 (1)(A)(i).

13 (3) EXPENDITURES AND WITHDRAWAL.—

14 (A) TRIBAL MANAGEMENT PLAN.—

15 (i) IN GENERAL.—Subject to clause
16 (ii), the Pueblo may withdraw all or part
17 of the Restoration Fund on approval by
18 the Secretary of a tribal management plan
19 in accordance with section 202 of the
20 American Indian Trust Fund Management
21 Reform Act of 1994 (25 U.S.C. 4022).

22 (ii) REQUIREMENTS.—In addition to
23 the requirements under the American In-
24 dian Trust Fund Management Reform Act
25 of 1994 (25 U.S.C. 4001 et seq.), a tribal

1 management plan described in clause (i)
2 shall require that the Pueblo shall expend
3 any funds withdrawn from the Restoration
4 Fund under this paragraph in a manner
5 consistent with the purposes described in
6 the Settlement Agreement.

7 (B) ENFORCEMENT.—The Secretary may
8 take judicial or administrative action to enforce
9 the provisions of any tribal management plan
10 described in subparagraph (A)(i) to ensure that
11 any funds withdrawn from the Restoration
12 Fund under this paragraph are used in accord-
13 ance with this Act.

14 (C) LIABILITY.—If the Pueblo exercises
15 the right to withdraw funds from the Restora-
16 tion Fund under this paragraph, neither the
17 Secretary nor the Secretary of the Treasury
18 shall retain any liability for the accounting, dis-
19 bursement, or investment of the funds with-
20 drawn.

21 (D) EXPENDITURE PLAN.—

22 (i) IN GENERAL.—The Pueblo shall
23 submit to the Secretary for approval an ex-
24 penditure plan for any portion of the funds
25 in the Restoration Fund made available

1 under this Act that the Pueblo does not
2 withdraw under this paragraph.

3 (ii) DESCRIPTION.—The expenditure
4 plan shall describe the manner in which,
5 and the purposes for which, funds of the
6 Pueblo remaining in the Restoration Fund
7 will be used.

8 (iii) APPROVAL.—On receipt of an ex-
9 penditure plan under clause (i), the Sec-
10 retary shall approve the plan if the Sec-
11 retary determines that the plan is reason-
12 able and consistent with this Act and the
13 Settlement Agreement.

14 (E) ANNUAL REPORT.—The Pueblo shall
15 submit to the Secretary an annual report that
16 describes expenditures from the Restoration
17 Fund during the year covered by the report.

18 (d) MAINTENANCE AND INVESTMENT OF RESTORA-
19 TION FUND.—

20 (1) IN GENERAL.—The Restoration Fund and
21 amounts in the Restoration Fund shall be main-
22 tained and invested by the Secretary of the Interior
23 pursuant to the first section of the Act of June 24,
24 1938 (52 Stat. 1037, chapter 648).

1 (c) COMPENSATION.—After the date of enactment of
2 this Act, in accordance with the Settlement Agreement,
3 and upon entry of the final judgment described in sub-
4 section (b)—

5 (1) compensation to the Pueblo shall be paid
6 from the permanent judgment appropriation estab-
7 lished pursuant to section 1304 of title 31, United
8 States Code, in the total amount of \$32,838,750 for
9 all monetary damages and attorney fees, interest,
10 and any other fees and costs of any kind that were
11 or could have been presented in connection with
12 Docket No. 98–166L of the United States Court of
13 Federal Claims; but

14 (2) the Pueblo shall retain all rights, including
15 the right to bring civil actions based on causes of ac-
16 tion, relating to the removal of ordnance under—

17 (A) the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of
19 1980 (42 U.S.C. 9601 et seq.);

20 (B) the Defense Environmental Restora-
21 tion Program under section 2701 of title 10,
22 United States Code; and

23 (C) any contract entered into by the Pueb-
24 lo for the removal of ordnance.

1 (d) OTHER LIMITATIONS ON USE OF FUNDS.—The
2 Indian Tribal Judgment Funds Use or Distribution Act
3 (25 U.S.C. 1401 et seq.) shall not apply to funds distrib-
4 uted or withdrawn from the Restoration Fund under this
5 Act.

6 (e) NO EFFECT ON LAND, RESOURCES, OR WATER
7 RIGHTS.—Nothing in this Act affects the status of land
8 and natural resources of the Pueblo or any water right
9 of the Pueblo.

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