

108TH CONGRESS
1ST SESSION

H. R. 222

To establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mrs. WILSON of New Mexico (for herself, Mr. PEARCE, and Mr. UDALL of New Mexico) introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest, 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 “T'uf Shur Bien Preser-
5 vation Trust Area Act”.

6 **SEC. 2. FINDING AND STATEMENT OF PURPOSE.**

7 (a) FINDING.—The Congress finds that in 1748, the
8 Pueblo of Sandia received a grant from a representative
9 of the King of Spain, which grant was recognized and con-
10 firmed by Congress in 1858 (11 Stat. 374). In 1994, the

1 Pueblo filed a lawsuit against the Secretary of the Interior
2 and the Secretary of Agriculture in the U.S. District
3 Court for the District of Columbia, Civil No.
4 1:94CV02624, asserting that Federal surveys of the grant
5 boundaries erroneously excluded certain lands within the
6 Cibola National Forest, including a portion of the Sandia
7 Mountain Wilderness.

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

9 (1) establish the T’uf Shur Bien Preservation
10 Trust Area in the Cibola National Forest;

11 (2) confirm the status of National Forest Sys-
12 tem lands and wilderness lands in the Area while re-
13 solving issues associated with the Pueblo’s lawsuit
14 and the opinions of the Solicitor of the Department
15 of the Interior dated December 9, 1988 (M–36963;
16 96 I.D. 331) and January 19, 2001 (M–37002); and

17 (3) provide the Pueblo, parties involved in the
18 litigation, and the public with a fair and just settle-
19 ment of the Pueblo’s claim.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act:

22 (1) AREA.—The term “Area” means the T’uf
23 Shur Bien Preservation Trust Area as depicted on
24 the map, except that the term excludes the subdivi-

1 sions, Pueblo-owned lands, the crest facilities, and
2 the special use permit lands.

3 (2) CREST FACILITIES.—The term “crest facili-
4 ties” means all facilities and developments located
5 on the crest of Sandia Mountain, including the
6 Sandia Crest Electronic Site; electronic site access
7 roads; the Crest House; the upper terminal, res-
8 taurant, and related facilities of Sandia Peak Tram
9 Company; the Crest Observation Area; parking lots;
10 restrooms; the Crest Trail (Trail No. 130); hang
11 glider launch sites; and the Kiwanis cabin; as well
12 as the lands upon which such facilities are located
13 and the lands extending 100 feet along terrain to
14 the west of each such facility, unless a different dis-
15 tance is agreed to in writing between the Forest
16 Service and the Pueblo and documented in the sur-
17 vey of the Area.

18 (3) EXISTING USES AND ACTIVITIES.—The
19 term “existing uses and activities” means uses and
20 activities occurring in the Area on the date of enact-
21 ment of this Act, or which have been authorized in
22 the Area after November 1, 1995, but before the
23 date of enactment of this Act.

24 (4) LA LUZ TRACT.—The term “La Luz Tract”
25 means that tract comprised of approximately 31

1 acres of land owned in fee by the Pueblo and de-
2 picted on the map.

3 (5) LOCAL PUBLIC BODIES.—The term “local
4 public bodies” means political subdivisions of the
5 State of New Mexico as defined in New Mexico Code
6 sec. 6–5–1.

7 (6) MAP.—The term “map” means the Forest
8 Service map entitled “T’uf Shur Bien Preservation
9 Trust Area”, dated April 2000.

10 (7) MODIFIED USES OR ACTIVITIES.—The term
11 “modified uses or activities” means existing uses
12 which are being modified or re-configured, but which
13 are not being significantly expanded, including a
14 trail or trailhead being modified, such as to accom-
15 modate handicapped access, a parking area being
16 reconfigured though not expanded, or a special use
17 authorization for a group recreation activity being
18 authorized for a different use area or time period.

19 (8) NEW USES OR ACTIVITIES.—The term “new
20 uses or activities” means uses or activities not occur-
21 ring in the Area on the date of enactment of this
22 Act, as well as existing uses or activities that are
23 being modified such that they significantly expand
24 or alter their previous scope, dimensions, or impacts
25 on the land, water, air and/or wildlife resources of

1 the Area. New uses and activities do not apply to
2 new uses or activities that are categorically excluded
3 from documentation requirements pursuant to the
4 National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.), or to activities undertaken to
6 comply with the Endangered Species Act of 1973
7 (16 U.S.C. 1531 et seq.).

8 (9) PIEDRA LISA TRACT.—The term “Piedra
9 Lisa tract” means that tract comprised of approxi-
10 mately 160 acres of land held in private ownership
11 and depicted on the map.

12 (10) PUEBLO.—The term “Pueblo” means the
13 Pueblo of Sandia in its governmental capacity.

14 (11) SECRETARY.—The term “Secretary”
15 means the Secretary of Agriculture, except where
16 otherwise expressly indicated.

17 (12) SETTLEMENT AGREEMENT.—The term
18 “Settlement Agreement” means the Agreement of
19 Compromise and Settlement dated April 4, 2000, be-
20 tween the United States, the Pueblo, and the Sandia
21 Peak Tram Company.

22 (13) SPECIAL USE PERMIT.—The term “special
23 use permit” means the December 1, 1993, Special
24 Use Permit issued by the Forest Service to Sandia
25 Peak Tram Company and Sandia Peak Ski Com-

1 pany, encompassing approximately 46 acres of the
2 corridor presently dedicated to aerial tramway use,
3 and approximately 945 acres of the ski area, as well
4 as the lands described generally in Exhibit A to the
5 December 31, 1993, Special Use Permit, including
6 the maintenance road to the lower tram tower, water
7 storage and distribution facilities, seven helispots,
8 and the other lands described therein.

9 (14) SUBDIVISIONS.—The term “subdivisions”
10 means the subdivisions of Sandia Heights Addition,
11 Sandia Heights North Units I, II, and 3, Tierra
12 Monte, Valley View Acres, and Evergreen Hills, as
13 well as any additional plats and privately owned
14 properties depicted on the map.

15 (15) TRADITIONAL AND CULTURAL USES.—The
16 terms “traditional and cultural uses” and “tradi-
17 tional and cultural purposes” mean ceremonial ac-
18 tivities, including the placing of ceremonial materials
19 in the Area, and the use, hunting, trapping or gath-
20 ering of plants, animals, wood, water, and other nat-
21 ural resources, but only for non-commercial pur-
22 poses.

23 **SEC. 4. T'UF SHUR BIEN PRESERVATION TRUST AREA.**

24 (a) ESTABLISHMENT.—The T'uf Shur Bien Preser-
25 vation Trust Area is established within the Cibola Na-

1 tional Forest and the Sandia Mountain Wilderness as de-
2 picted on the map—

3 (1) to recognize and protect in perpetuity the
4 Pueblo’s rights and interests in and to the Area, as
5 specified in section 5(a) of this Act;

6 (2) to preserve in perpetuity the Wilderness and
7 National Forest character of the Area; and

8 (3) to recognize and protect in perpetuity the
9 public’s longstanding use and enjoyment of the Area.

10 (b) ADMINISTRATION AND APPLICABLE LAW.—The
11 Secretary, acting through the Forest Service, shall con-
12 tinue to administer the Area as part of the National For-
13 est System and incorporate the provisions of this Act af-
14 fecting management of the Area, including section 5(a)(3)
15 and section 7.

16 (c) EXCEPTIONS.—

17 (1) Traditional and cultural uses by Pueblo
18 members and members of other federally recognized
19 Indian tribes authorized to use the Area by the
20 Pueblo under section 5(a)(4) of this Act shall not be
21 restricted except by the Wilderness Act and its regu-
22 lations as they exist on the date of enactment of this
23 Act and by applicable federal wildlife protection laws
24 as provided in section 6(a)(2) of this Act.

1 (2) To the extent that laws enacted or amended
2 after the date of this Act are inconsistent with this
3 Act, they shall not apply to the Area unless ex-
4 pressly made applicable by Congress.

5 (3) The use of the word “Trust” in the name
6 of the Area is in recognition of the Pueblo’s specific
7 rights and interests in the Area, and does not confer
8 upon the Pueblo the ownership interest that exists
9 when the Secretary of the Interior accepts the title
10 to land in trust for the benefit of an Indian tribe.

11 (d) AREA DEFINED.—

12 (1) The Area shall be comprised of approxi-
13 mately 9,890 acres of land within the Cibola Na-
14 tional Forest as depicted on the map.

15 (2) As soon as practicable after enactment of
16 this Act, the Secretary shall file the map and a legal
17 description of the Area with the Committee on Re-
18 sources of the House of Representatives and with
19 the Committee on Energy and Natural Resources of
20 the Senate. The map and legal description shall be
21 on file and available for public inspection in the Of-
22 fice of the Chief of the Forest Service.

23 (3) Such map and legal description shall have
24 the same force and effect as if included in this Act,
25 except that—

1 (A) clerical and typographical errors shall
2 be corrected:

3 (B) changes that may be necessary pursu-
4 ant to section 9(b), 9(d), 9(e), 14(c) and 14(d)
5 shall be made; and

6 (C) to the extent the map and the lan-
7 guage of this Act conflict, the language of the
8 Act controls.

9 (e) NO CONVEYANCE OF TITLE.—The United States’
10 right, and interest in or to the Area or any part thereof
11 shall not be conveyed to or exchanged with any person,
12 trust, or governmental entity, including the Pueblo, with-
13 out specific authorization of Congress.

14 (f) PROHIBITED USES.—Notwithstanding any other
15 provision of law, no use prohibited by the Wilderness Act
16 as of the date of enactment of this Act may occur in the
17 Wilderness portion of the Area; nor may any of the fol-
18 lowing uses occur in any portion of the Area; gaming or
19 gambling of any kind, mineral production, timber produc-
20 tion, and new uses or activities to which the Pueblo objects
21 pursuant to section 5(a)(3) of this Act. The Area is closed
22 to the location of mining claims under the Mining Law
23 of 1872 (30 U.S.C. 22).

24 (g) NO MODIFICATION OF BOUNDARIES.—Creation
25 of the T’uf Shur Bien Preservation Trust Area shall not

1 affect the boundaries of, nor repeal or disestablish the
2 Sandia Mountain Wilderness or the Cibola National For-
3 est. Establishment of the Area does not in any way modify
4 the existing boundary of the Pueblo grant.

5 **SEC. 5. PUEBLO OF SANDIA RIGHTS AND INTERESTS IN**
6 **THE AREA.**

7 (a) GENERAL.—The Pueblo shall have the following
8 rights and interests in the Area:

9 (1) Free and unrestricted access to the Area for
10 traditional and cultural uses to the extent not incon-
11 sistent with the Wilderness Act and its regulations
12 as they exist on the date of enactment of this Act
13 and with applicable federal wildlife protection laws
14 as provided in section 6(a)(2);

15 (2) Perpetual preservation of the Wilderness
16 and National Forest character of the Area under
17 this Act;

18 (3) Rights in the management of the Area as
19 set forth in section 7, which include—

20 (A) the right to consent or withhold con-
21 sent to new uses;

22 (B) the right to consultation regarding
23 modified uses;

24 (C) the right to consultation regarding the
25 management and preservation of the Area; and

1 (D) the right to dispute resolution proce-
2 dures;

3 (4) Exclusive authority, in accordance with its
4 customs and laws, to administer access to the Area
5 for traditional and cultural uses by members of the
6 Pueblo and of other federally recognized Indian
7 tribes; and

8 (5) Such other rights and interests as are enu-
9 merated and recognized in sections 4, 5(c), 7, 8, and
10 9.

11 (b) LIMITATION.—Except as provided in subsection
12 (a)(4), access to and use of the Area for all other purposes
13 shall continue to be administered by the Secretary through
14 the Forest Service.

15 (c) COMPENSABLE INTEREST.—

16 (1) If, by an Act of Congress enacted subse-
17 quent to the effective date of this Act, Congress di-
18 minishes the Wilderness and National Forest des-
19 ignation of the Area by authorizing a use prohibited
20 by section 4(f) in all or any portion of the Area, or
21 denies the Pueblo access for any traditional and cul-
22 tural uses in all or any portion of the Area, the
23 United States shall compensate the Pueblo as if the
24 Pueblo had held a fee title interest in the affected
25 portion of the Area and as though the United States

1 had acquired such interest by legislative exercise of
2 its power of eminent domain, and the restrictions of
3 sections 4(f) and 6(a) shall be disregarded in deter-
4 mining just compensation owed to the Pueblo.

5 (2) Any compensation made to the Pueblo pur-
6 suant to subsection (c)(1) does not in any way affect
7 the extinguishment of claims set forth in section 10.

8 **SEC. 6. LIMITATIONS ON PUEBLO OF SANDIA RIGHTS AND**
9 **INTERESTS IN THE AREA.**

10 (a) **LIMITATIONS.**—The Pueblo’s rights and interests
11 recognized in this Act do not include—

12 (1) any right to sell, grant, lease, convey, en-
13 cumber or exchange lands in the Area, or any right
14 or interest therein, and any such conveyance shall
15 not have validity in law or equity;

16 (2) any exemption from applicable federal wild-
17 life protection laws;

18 (3) any right to engage in any activity or use
19 prohibited in section 4(f); or

20 (4) any right to exclude persons or govern-
21 mental entities from the Area.

22 (b) **EXCEPTION.**—No person who exercises tradi-
23 tional and cultural use rights as authorized in section
24 5(a)(4) of this Act may be prosecuted for a federal wildlife

1 offense requiring proof of a violation of a state law or reg-
2 ulation.

3 **SEC. 7. MANAGEMENT OF THE AREA.**

4 (a) PROCESS.—

5 (1) GENERAL.—The Forest Service shall con-
6 sult with the Pueblo of Sandia not less than twice
7 a year, unless otherwise mutually agreed, concerning
8 protection, preservation, and management of the
9 Area, including proposed new and modified uses and
10 activities in the Area and authorizations that are an-
11 ticipated during the next six months and approved
12 in the preceding six months.

13 (2) NEW USES AND ACTIVITIES.—

14 (A) If after consultation the Pueblo of
15 Sandia denies its consent for a new use or ac-
16 tivity within 30 days of the consultation, the
17 Forest Service will not be authorized to proceed
18 with the activity or use. If the Pueblo consents
19 to the new use or activity in writing or fails to
20 respond within 30 days, the Forest Service may
21 proceed with the notice and comment process
22 and the environmental analysis.

23 (B) Before the Forest Service signs a
24 Record of Decision (ROD) or Decision Notice
25 (DN) for a proposed use or activity, the Forest

1 Service will again request Pueblo consent within
2 30 days of the Pueblo's receipt of the proposed
3 ROD or DN. If the Pueblo refuses to consent,
4 the activity or use will not be authorized. If the
5 Pueblo fails to respond to the consent request
6 within 30 days after the proposed ROD or DN
7 is provided to the Pueblo, the Pueblo will be
8 deemed to have consented to the proposed ROD
9 or DN and the Forest Service may proceed to
10 issue the final ROD or DN.

11 (3) PUBLIC INVOLVEMENT.—For proposed new
12 and modified uses and activities, the public shall be
13 provided notice of—

14 (A) the purpose and need for the proposed
15 action or activity,

16 (B) the Pueblo's role in the decision-mak-
17 ing process, and

18 (C) the Pueblo's position on the proposal.

19 (4) CHALLENGE.— Any person may file an ac-
20 tion in the United States District Court for the Dis-
21 trict of New Mexico to challenge Forest Service de-
22 terminations of what constitutes a new or a modified
23 use or activity.

24 (b) EMERGENCIES AND EMERGENCY CLOSURE OR-
25 DERS.—The Forest Service shall retain its existing au-

1 thorities to manage emergency situations, to provide for
2 public safety, and to issue emergency closure orders in the
3 Area subject to applicable law. The Forest Service shall
4 notify the Pueblo of Sandia regarding emergencies, public
5 safety issues, and emergency closure orders as soon as
6 possible. Such actions are not subject to the Pueblo's right
7 to withhold consent to new uses in the Area as set forth
8 in section 5(a)(3)(i).

9 (c) DISPUTES INVOLVING FOREST SERVICE MAN-
10 AGEMENT AND PUEBLO TRADITIONAL USES.—

11 (1) GENERAL.—In the event that Forest Serv-
12 ice management of the Area and Pueblo traditional
13 and cultural uses conflict, and the conflict does not
14 pertain to new or modified uses subject to the proc-
15 ess set forth in subsection (a), the process for dis-
16 pute resolution set forth in this subsection shall take
17 effect.

18 (2) DISPUTE RESOLUTION PROCESS.—

19 (A) When there is a dispute between the
20 Pueblo and the Forest Service regarding Pueblo
21 traditional and cultural use and Forest Service
22 management of the Area, the party identifying
23 the dispute shall notify the other party in writ-
24 ing addressed to the Governor of the Pueblo or
25 the Regional Forester respectively, setting forth

1 the nature of the dispute. The Regional For-
2 ester or designee and the Governor of the Pueb-
3 lo or designee shall attempt to resolve the dis-
4 pute for no less than 30 days after notice has
5 been provided before filing an action in United
6 States District Court for the District of New
7 Mexico.

8 (B) DISPUTES REQUIRING IMMEDIATE
9 RESOLUTION.—In the event of a conflict that
10 requires immediate resolution to avoid immi-
11 nent, substantial and irreparable harm, the
12 party alleging such conflict shall notify the
13 other party and seek to resolve the dispute
14 within 3 days of the date of notification. If the
15 parties are unable to resolve the dispute within
16 3 days, either party may file an action for im-
17 mediate relief in the United States District
18 Court for the District of New Mexico, and the
19 procedural exhaustion requirements set forth
20 above shall not apply.

21 **SEC. 8. JURISDICTION OVER THE AREA.**

22 (a) CRIMINAL JURISDICTION.—Notwithstanding any
23 other provision of law, jurisdiction over crimes committed
24 in the Area shall be allocated as follows:

1 (1) To the extent that the allocations of crimi-
2 nal jurisdiction over the Area under paragraphs (2),
3 (3), and (4) of this subsection are overlapping, they
4 should be construed to allow for the exercise of con-
5 current criminal jurisdiction.

6 (2) The Pueblo shall have jurisdiction over
7 crimes committed by its members or by members of
8 another federally recognized Indian tribe who are
9 present in the Area with the Pueblo's permission
10 pursuant to section 5(a)(4).

11 (3) The United States shall have jurisdiction
12 over—

13 (A) the offenses listed in section 1153 of
14 title 18, U.S. Code, including any offenses
15 added to the list in that statute by future
16 amendments thereto, when such offenses are
17 committed by members of the Pueblo and other
18 federally recognized Indian tribes;

19 (B) crimes committed by any person in
20 violation of laws and regulations pertaining to
21 the protection and management of National
22 Forests;

23 (C) enforcement of federal criminal laws of
24 general applicability; and

1 (D) any other offense committed by a
2 member of the Pueblo against a non-member of
3 the Pueblo. Any offense which is not defined
4 and punished by federal law in force within the
5 exclusive jurisdiction of the United States shall
6 be defined and punished in accordance with the
7 laws of the State of New Mexico.

8 (4) The State of New Mexico shall have juris-
9 diction over any crime under its laws committed by
10 a person not a member of the Pueblo.

11 (b) CIVIL JURISDICTION.—

12 (1) Except as provided in paragraphs (2), (3),
13 (4), and (5), the United States, the State of New
14 Mexico, and local public bodies shall have same civil
15 adjudicatory, regulatory, and taxing jurisdiction over
16 the Area as they exercised prior to the enactment of
17 this Act.

18 (2) The Pueblo shall have exclusive civil adju-
19 dicatory jurisdiction over—

20 (A) disputes involving only members of the
21 Pueblo;

22 (B) civil actions brought by the Pueblo
23 against members of the Pueblo; and

24 (C) civil actions brought by the Pueblo
25 against members of other federally recognized

1 Indian tribes for violations of understandings
2 between the Pueblo and that member's tribe re-
3 garding use or access to the Area for traditional
4 and cultural purposes.

5 (3) The Pueblo shall have no regulatory juris-
6 diction over the Area with the exception of—

7 (A) exclusive authority to regulate tradi-
8 tional and cultural uses by the Pueblo's own
9 members and to administer access to the Area
10 by other federally recognized Indian tribes for
11 traditional and cultural uses, to the extent such
12 regulations is consistent with this Act; and

13 (B) The Pueblo shall have exclusive au-
14 thority to regulate hunting and trapping in the
15 Area by its members that is related to tradi-
16 tional and cultural purposes: Provided that any
17 hunting and trapping conducted by Pueblo
18 members as a traditional and cultural use with-
19 in the Area, excluding that part of the Area
20 contained within Sections 13, 14, 23, 24, and
21 the northeast quarter of Section 25 of T12N,
22 R4E, and Section 19 of T12N, R5E,
23 N.M.P.M., Sandoval County, New Mexico, shall
24 be regulated by the Pueblo in a manner con-
25 sistent with the regulations of the State of New

1 Mexico concerning types of weapons and prox-
2 imity of hunting and trapping to trails and resi-
3 dences.

4 (4) The Pueblo shall have no authority to im-
5 pose taxes within the Area.

6 (5) The State of New Mexico and local public
7 bodies shall have no authority within the Area to tax
8 the activities or the property of the Pueblo, its mem-
9 bers, or members of other federally recognized In-
10 dian tribes authorized to use the Area under section
11 5(a)(4) of this Act.

12 **SEC. 9. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.**

13 (a) SUBDIVISIONS.—The subdivisions are excluded
14 from the Area. The Pueblo shall have no civil or criminal
15 jurisdiction for any purpose, including adjudicatory, tax-
16 ing, zoning, regulatory or any other form of jurisdiction,
17 over the subdivisions and property interests therein, and
18 the laws of the Pueblo shall not apply to the subdivisions.
19 The jurisdiction of the State of New Mexico and local pub-
20 lic bodies over the subdivisions and property interests
21 therein shall continue in effect, except that upon applica-
22 tion of the Pueblo a tract comprised of approximately 35
23 contiguous, non-subdivided acres in the northern section
24 of Evergreen Hills owned in fee by the Pueblo at the time
25 of enactment of this Act, shall be transferred to the

1 United States and held in trust for the Pueblo by the
2 United States and administered by the Secretary of the
3 Interior. Such trust land shall be subject to all limitations
4 on use pertaining to the Area contained in this Act.

5 (b) PIEDRA LISA.—The Piedra Lisa tract is excluded
6 from the Area. The Pueblo shall transfer the Piedra Lisa
7 tract to the United States to be held in trust for the Pueb-
8 lo by the United States and administered by the Secretary
9 of the Interior subject to all limitations on use pertaining
10 to the Area contained in this Act. The restriction con-
11 tained in section 6(a)(4) shall not apply outside of Forest
12 Service System trails.

13 (c) CREST FACILITIES.—The lands on which the
14 crest facilities are located are excluded from the Area. The
15 Pueblo shall have no civil or criminal jurisdiction for any
16 purpose, including adjudicatory, taxing, zoning, regulatory
17 or any other form of jurisdiction, over the lands on which
18 the crest facilities are located and property interests there-
19 in, and the laws of the Pueblo shall not apply to those
20 lands. The pre-existing jurisdictional status of those lands
21 shall continue in effect.

22 (d) SPECIAL USE PERMIT AREA.—The lands de-
23 scribed in the special use permit are excluded from the
24 Area. The Pueblo shall have no civil or criminal jurisdic-
25 tion for any purpose, including adjudicatory, taxing, zon-

1 ing, regulatory, or any other form of jurisdiction, over the
2 land described in the special use permit, and the laws of
3 the Pueblo shall not apply to those lands. The pre-existing
4 jurisdictional status of these lands shall continue in effect.
5 In the event the special use permit, during its existing
6 term or any future terms or extensions, requires amend-
7 ment to include other lands in the Area necessary to re-
8 align the existing or any future replacement tram line, as-
9 sociated structures, or facilities, the lands subject to that
10 amendment shall thereafter be excluded from the Area and
11 shall have the same status under this Act as the lands
12 currently described in the special use permit. Any lands
13 dedicated to aerial tramway and related uses and associ-
14 ated facilities that are excluded from the special use per-
15 mit through expiration, termination or the amendment
16 process shall thereafter be included in the Area but only
17 after final agency action no longer subject to any appeals.

18 (e) LA LUZ TRACT.—The La Luz tract now owned
19 in fee by the Pueblo is excluded from the Area and upon
20 application by the Pueblo shall be transferred to the
21 United States and held in trust for the Pueblo by the
22 United States and administered by the Secretary of the
23 Interior subject to all limitations on use pertaining to the
24 Area contained in this Act. The restriction contained in

1 section 6(a)(4) shall not apply outside of Forest Service
2 System trails.

3 (f) EVERGREEN HILLS ACCESS.—The Secretary,
4 consistent with section 1323(a) of the Alaska National In-
5 terest Lands Conservation Act (16 U.S.C. 3210), shall en-
6 sure that Forest Service Road 333D, as depicted on the
7 map, is maintained in an adequate condition consistent
8 with the terms of section 1323(a) of the Alaska National
9 Interest Lands Conservation Act (16 U.S.C. 3210).

10 (g) PUEBLO FEE LANDS.—Those properties not spe-
11 cifically addressed in subsections (a) or (e) of this section
12 that are owned in fee by the Pueblo within the subdivisions
13 are excluded from the Area and shall be subject to the
14 jurisdictional provisions of subsection (a) of this section.

15 (h) RIGHTS-OF-WAY.—

16 (1) ROAD RIGHTS-OF-WAY.—

17 (A) In accordance with the Pueblo having
18 given its consent in the Settlement Agreement,
19 the Secretary of the Interior shall grant to the
20 County of Bernalillo, New Mexico, in per-
21 petuity, the following irrevocable rights-of-way
22 for roads identified on the map in order to pro-
23 vide for public access to the subdivisions, the
24 special use permit land and facilities, the other
25 leasehold and easement rights and interests of

1 the Sandia Peak Tram Company and its affili-
2 ates, the Sandia Heights South Subdivision,
3 and the Area—

4 (i) a right-of-way for Tramway Road;

5 (ii) a right-of-way for Juniper Hill
6 Road North;

7 (iii) a right-of-way for Juniper Hill
8 Road South;

9 (iv) a right-of-way for Sandia Heights
10 Road; and

11 (v) a right-of-way for Juan Tabo Can-
12 yon Road (Forest Road No. 333).

13 (B) The road rights-of-way shall be subject
14 to the following conditions:

15 (i) Such rights-of-way may not be ex-
16 panded or otherwise modified without the
17 Pueblo's written consent, but road mainte-
18 nance to the rights of way shall not be
19 subject to Pueblo consent.

20 (ii) The rights-of-way shall not au-
21 thorize uses for any purpose other than
22 roads without the Pueblo's written consent.

23 (iii) Except as provided in the Settle-
24 ment Agreement, existing rights-of-way or
25 leasehold interests and obligations held by

1 the Sandia Peak Tram Company and its
2 affiliates, shall be preserved, protected, and
3 unaffected by this Act.

4 (2) UTILITY RIGHTS-OF-WAY.—In accordance
5 with the Pueblo having given its consent in the Set-
6 tlement Agreement, the Secretary of the Interior
7 shall grant irrevocable utility rights-of-way in per-
8 petuity across Pueblo lands to appropriate utility or
9 other service providers serving Sandia Heights Addi-
10 tion, Sandia Heights North Units I, II, and III, the
11 special use permit lands, Tierra Monte, and Valley
12 View Acres, including rights-of-way for natural gas,
13 power, water, telecommunications, and cable tele-
14 vision services. Such rights-of-way shall be within ex-
15 isting utility corridors as depicted on the map or, for
16 certain water lines, as described in the existing grant
17 of easement to the Sandia Peak Utility Company;
18 provided that use of water line easements outside
19 the utility corridors depicted on the map shall not be
20 used for utility purposes other than water lines and
21 associated facilities. Except where above-ground fa-
22 cilities already exist, all new utility facilities shall be
23 installed underground unless the Pueblo agrees oth-
24 erwise. To the extent that enlargement of existing
25 utility corridors is required for any technologically-

1 advanced telecommunication, television, or utility
2 services, the Pueblo shall not unreasonably withhold
3 agreement to a reasonable enlargement of the ease-
4 ments described above.

5 (i) FOREST SERVICE RIGHTS-OF-WAY.—In accord-
6 ance with the Pueblo having given its consent in the Set-
7 tlement Agreement, the Secretary of the Interior shall
8 grant to the Forest Service the following irrevocable
9 rights-of-way in perpetuity for Forest Service trails cross-
10 ing land of the Pueblo in order to provide for public access
11 to the Area and through Pueblo lands:

12 (1) A right-of-way for a portion of the Crest
13 Spur Trail (Trail No. 84), crossing a portion of the
14 La Luz tract, as identified on the map;

15 (2) A right-of-way for the extension of the
16 Foothills Trail (Trail No. 365A), as identified on the
17 map; and

18 (3) A right-of-way for that portion of the
19 Piedra Lisa North-South Trail (Trail No. 135)
20 crossing the Piedra Lisa tract.

21 **SEC. 10. EXTINGUISHMENT OF CLAIMS.**

22 (a) GENERAL.—Except for the rights and interests
23 in and to the Area specifically recognized in sections 4,
24 5, 7, 8, and 9, all Pueblo claims to right, title and interest
25 of any kind, including aboriginal claims, in and to lands

1 within the Area, any part thereof, and property interests
2 therein, as well as related boundary, survey, trespass, and
3 monetary damage claims, are hereby permanently extin-
4 guished. The United States' title to the Area is hereby
5 confirmed.

6 (b) SUBDIVISIONS.—Any Pueblo claims to right, title
7 and interest of any kind, including aboriginal claims, in
8 and to the subdivisions and property interests therein (ex-
9 cept for land owned in fee by the Pueblo as of the date
10 of enactment of this Act), as well as related boundary,
11 survey, trespass, and monetary damage claims, are hereby
12 permanently extinguished.

13 (c) SPECIAL USE AND CREST FACILITIES AREAS.—
14 Any Pueblo right, title and interest of any kind, including
15 aboriginal claims, and related boundary, survey, trespass,
16 and monetary damage claims, are hereby permanently ex-
17 tinguished in and to—

18 (1) the lands described in the special use per-
19 mit; and

20 (2) the lands on which the crest facilities are lo-
21 cated.

22 (d) PUEBLO AGREEMENT.—As provided in the Set-
23 tlement Agreement, the Pueblo has agreed to the relin-
24 quishment and extinguishment of those claims, rights, ti-

1 tles and interests extinguished pursuant to subsections
2 (a), (b) and (c) of this section.

3 (e) CONSIDERATION.—The recognition of the Pueb-
4 lo’s rights and interests in this Act constitutes adequate
5 consideration for the Pueblo’s agreement to the extin-
6 guishment of the Pueblo’s claims to this section and the
7 right-of-way grants contained in section 9, and it is the
8 intent of Congress that those rights and interests may
9 only be diminished by a future Act of Congress specifically
10 authorizing diminishment of such rights, with express ref-
11 erence to this Act.

12 **SEC. 11. CONSTRUCTION.**

13 (a) STRICT CONSTRUCTION.—This Act recognizes
14 only enumerated rights and interests, and no additional
15 rights, interests, obligations, or duties shall be created by
16 implication.

17 (b) EXISTING RIGHTS.—To the extent there exists
18 within the Area at the time of enactment of this Act any
19 valid private property rights associated with private lands
20 that are not otherwise addressed in this Act, such rights
21 are not modified or otherwise affected by this Act, nor
22 is the exercise of any such right subject to the Pueblo’s
23 right to withhold consent to new uses in the Area as set
24 forth in section 5(a)(3)(i).

1 (c) NOT PRECEDENT.—The provisions of this Act
2 creating certain rights and interests in the National For-
3 est System are uniquely suited to resolve the Pueblo’s
4 claim and the geographic and societal situation involved,
5 and shall not be construed as precedent for any other situ-
6 ation involving management of the National Forest Sys-
7 tem.

8 (d) FISH AND WILDLIFE.—Except as provided in sec-
9 tion 8(b)(2)(B), nothing in this Act shall be construed as
10 affecting the responsibilities of the State of New Mexico
11 with respect to fish and wildlife, including the regulation
12 of hunting, fishing, or trapping within the Area.

13 (e) FEDERAL LAND POLICY AND MANAGEMENT
14 ACT.—Section 316 of the Federal Land Policy and Man-
15 agement Act of 1976 (43 U.S.C. 1746) is amended by
16 adding at the end the following new sentence: “Any correc-
17 tions authorized by this section which affect the bound-
18 aries of, or jurisdiction over, lands administered by an-
19 other Federal agency shall be made only after consultation
20 with, and the approval of, the head of such other agency.”

21 **SEC. 12. JUDICIAL REVIEW.**

22 (a) ENFORCEMENT.—Suit to enforce the provisions
23 of this Act may be brought to the extent permitted under
24 chapter 7 of title 5, United States Code. Judicial review
25 shall be based upon the administrative record and subject

1 to the applicable standard of review set forth in section
2 706 of title 5.

3 (b) WAIVER.—Suit may be brought against the Pueb-
4 lo for declaratory judgment or injunctive relief under this
5 Act, but no money damages, including costs or attorney’s
6 fees, may be imposed on the Pueblo as a result of such
7 judicial action.

8 (c) VENUE.—Venue for any suit provided for in this
9 section, as well as any suit to contest the constitutionality
10 of this Act, shall lie only in the United States District
11 Court for the District of New Mexico.

12 **SEC. 13. EFFECTIVE DATE.**

13 The provisions of this Act shall take effect imme-
14 diately upon enactment of this Act.

15 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS AND RE-**
16 **LATED AUTHORITIES.**

17 (a) GENERAL.—There are hereby authorized to be
18 appropriated such sums as may be necessary to carry out
19 this Act, including such sums as may be necessary for the
20 Forest Service to acquire ownership of, or other interest
21 in, lands within the external boundaries of the Area as
22 authorized in subsection (d).

23 (b) CONTRIBUTIONS.—

24 (1) The Secretary is authorized to accept con-
25 tributions from the Pueblo, or from other persons or

1 governmental entities, to perform and complete a
2 survey of the Area, or otherwise for the benefit of
3 the Area in accordance with this Act.

4 (2) The Secretary shall complete a survey of
5 the Area within one year of the date of enactment
6 of this Act.

7 (c) LAND EXCHANGE.—Within 180 days after the
8 date of enactment of this Act, after consultation with the
9 Pueblo, the Secretary is directed in accordance with appli-
10 cable laws to prepare and offer a land exchange of Na-
11 tional Forest lands outside the Area and contiguous to the
12 northern boundary of the Pueblo’s Reservation within sec-
13 tions 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval
14 County, New Mexico excluding Wilderness land, for lands
15 owned by the Pueblo in the Evergreen Hills subdivision
16 in Sandoval County contiguous to National Forest land,
17 and the La Luz tract in Bernalillo County. Notwith-
18 standing section 206(b) of the Federal Land Policy and
19 Management Act (43 U.S.C. 1716(b)), the Secretary may
20 either make or accept a cash equalization payment in ex-
21 cess of 25 percent of the total value of the lands or inter-
22 ests transferred out of Federal ownership. Any funds re-
23 ceived by the Secretary as a result of the exchange shall
24 be deposited in the fund established under the Act of De-
25 cember 4, 1967, known as the Sisk Act (16 U.S.C. 484a),

1 and shall be available to purchase non-Federal lands with-
2 in or adjacent to the National Forests in the State of New
3 Mexico. All lands exchanged or conveyed to the Pueblo are
4 hereby declared to be held in trust for the Pueblo by the
5 United States and added to the Pueblo's Reservation sub-
6 ject to all existing and outstanding rights and shall remain
7 in their natural state and shall not be subject to commer-
8 cial development of any kind. Lands exchanged or con-
9 veyed to the Forest Service shall be subject to all limita-
10 tions on use pertaining to the Area under this Act. If the
11 land exchange offer is not made within 180 days after the
12 date of enactment of this Act, the Secretary shall submit
13 to the Committee on Energy and Natural Resources of
14 the United States Senate and the Committee on Resources
15 of the United States House of Representatives, a report
16 explaining the reasons for the failure to make the offer
17 including an assessment of the need for any additional leg-
18 islation that may be necessary for the exchange. If addi-
19 tional legislation is not necessary, the Secretary, con-
20 sistent with this section, should proceed with the exchange
21 pursuant to existing law.

22 (d) LAND ACQUISITION.—

23 (1) The Secretary is authorized to acquire lands
24 owned by the Pueblo within the Evergreen Hills
25 Subdivision in Sandoval County on any other pri-

1 vately held lands inside of the exterior boundaries of
2 the Area. The boundaries of the Cibola National
3 Forest and the Area shall be adjusted to encompass
4 any lands acquired pursuant to this section.

5 (2) The Secretary shall compensate the Pueblo
6 for the fair market value of—

7 (A) the right-of-way established pursuant
8 to section 9(i)(3); and

9 (B) the conservation easement established
10 by the limitations on use of the Piedra Lisa
11 tract pursuant to section 9(b).

12 (e) REIMBURSEMENT OF CERTAIN COSTS.—

13 (1) The Pueblo, the County of Bernalillo, New
14 Mexico, and any person who owns or has owned
15 property inside of the exterior boundaries of the
16 Area as designated on the map, and who has in-
17 curred actual and direct costs as a result of partici-
18 pating in the case of Pueblo of Sandia v. Babbit,
19 Civ. No. 94–2624 HHG (D.D.C.), or other pro-
20 ceedings directly related to resolving the issues liti-
21 gated in that case, may apply for reimbursement in
22 accordance with this section. Costs directly related
23 to such participation which shall qualify for reim-
24 bursement shall be—

1 (A) dues or payments to a homeowner as-
2 sociation for the purpose of legal representa-
3 tion; and

4 (B) legal fees and related expenses.

5 (2) The reimbursement provided in this sub-
6 section shall be in lieu of that which might otherwise
7 be available pursuant to the Equal Access to Justice
8 Act (24 U.S.C. 2412).

9 (3) The Secretary of the Treasury is authorized
10 and directed to make reimbursement payments as
11 provided in this section out of any money not other-
12 wise appropriated.

13 (4) Applications for reimbursement shall be
14 filed within 180 days of the date of enactment of
15 this Act with the Department of the Treasury, Fi-
16 nancial Management Service, Washington, DC.

17 (5) In no event shall any one party be com-
18 pensated in excess of \$750,000 and the total amount
19 reimbursed pursuant to this section shall not exceed
20 \$3,000,000.

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