

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section 539m-2(e) of this title; or

(4) any right to exclude persons or governmental entities from the Area.

(b) Exception

No person who exercises traditional or cultural use rights as authorized by section 539m-3(a)(4) of this title may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

(Pub. L. 108-7, div. F, title IV, § 406, Feb. 20, 2003, 117 Stat. 284.)

Editorial Notes

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsec. (a), was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m-5. Management of the Area

(a) Process

(1) In general

The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) New uses

(A) Request for consent after consultation

(i) Denial of consent

If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) Granting of consent

If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) Final request for consent

(i) Request

Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) Denial of consent

If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision

or decision notice, the new use shall not be authorized.

(iii) Failure to respond

If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) Public involvement

(A) In general

With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decisionmaking process; and

(iii) the position of the Pueblo on the proposal.

(B) Court challenge

Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) Emergencies and emergency closure orders

(1) Authority

The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) Notice

The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) No consent

An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) Disputes involving Forest Service management and Pueblo traditional uses

(1) In general

In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) Dispute resolution process

(A) In general

In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or

the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) Disputes requiring immediate resolution

In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

(Pub. L. 108-7, div. F, title IV, § 407, Feb. 20, 2003, 117 Stat. 284.)

§ 539m-6. Jurisdiction over the Area

(a) Criminal jurisdiction

(1) In general

Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.¹

(2) Jurisdiction of the Pueblo

The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section 539m-3(a)(4) of this title.

(3) Jurisdiction of the United States

The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18 committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) Jurisdiction of the State of New Mexico

The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) Overlapping jurisdiction

To the extent that the respective allocations of jurisdiction over the Area under paragraphs

(2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) Federal use of State law

Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) Civil jurisdiction

(1) In general

Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before February 20, 2003.

(2) Jurisdiction of the Pueblo

(A) In general

The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) Regulatory jurisdiction

The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with sections 539m to 539m-12 of this title; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) Taxing jurisdiction

The Pueblo shall have no authority to impose taxes within the Area.

(3) State and local taxing jurisdiction

The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized

¹ So in original. Probably should be "subsection."