

107TH CONGRESS
2^D SESSION

H. R. 5741

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2002

Mrs. WILSON 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 and
12 Wilderness lands in the Area while resolving issues
13 associated with the Pueblo’s lawsuit and the opin-
14 ions of the Solicitor of the Department of the Inte-
15 rior dated December 9, 1988 (M–36963; 96 I.D.
16 331) 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 (a) AREA.—The term “Area” means the T’uf Shur
23 Bien Preservation Trust Area as depicted on the map, and
24 excludes the subdivisions, Pueblo-owned lands, the crest

1 facilities, and the special use permit lands as set forth in
2 this Act.

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

16 (c) EXISTING USES AND ACTIVITIES.—The term
17 “existing uses and activities” means uses and activities oc-
18 ccurring in the Area on the date of enactment of this Act,
19 or which have been authorized in the Area after November
20 1, 1995 but before the date of enactment of this Act.

21 (d) FOREST SERVICE.—The term “Forest Service”
22 means the U.S. Forest Service.

23 (e) LA LUZ TRACT.—The term “La Luz Tract”
24 means that tract comprised of approximately 31 acres of
25 land owned in fee by the Pueblo and depicted on the map.

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

4 (g) MAP.—The term “map” means the Forest Serv-
5 ice map entitled “T’uf Shur Bien Preservation Trust
6 Area,” dated April 2000.

7 (h) MODIFIED USES OR ACTIVITIES.—The term
8 “modified uses or activities” means existing uses which
9 are being modified or re-configured, but which are not
10 being significantly expanded, including a trail or trailhead
11 being modified, such as to accommodate handicapped ac-
12 cess, a parking area being reconfigured though not ex-
13 panded, or a special use authorization for a group recre-
14 ation activity being authorized for a different use area or
15 time period.

16 (i) NEW USES OR ACTIVITIES.—The term “new uses
17 or activities” means uses or activities not occurring in the
18 Area on the date of enactment of this Act, as well as exist-
19 ing uses or activities that are being modified such that
20 they significantly expand or alter their previous scope, di-
21 mensions, or impacts on the land, water, air and/or wildlife
22 resources of the Area. New uses and activities do not apply
23 to new uses or activities that are categorically excluded
24 from documentation requirements pursuant to the Na-
25 tional Environmental Policy Act of 1969 (42 U.S.C. 4321

1 et seq.), or to activities undertaken to comply with the
2 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

3 (j) PIEDRA LISA TRACT.—The term “Piedra Lisa
4 tract” means that tract comprised of approximately 160
5 acres of land held in private ownership and depicted on
6 the map.

7 (k) PUEBLO.—The term “Pueblo” means the Pueblo
8 of Sandia in its governmental capacity.

9 (l) SECRETARY.—The term “Secretary” means the
10 Secretary of Agriculture, except where otherwise expressly
11 indicated.

12 (m) SETTLEMENT AGREEMENT.—The term
13 “Settlement Agreement” means the Agreement of Com-
14 promise and Settlement dated April 4, 2000, between the
15 United States, the Pueblo, and the Sandia Peak Tram
16 Company.

17 (n) SPECIAL USE PERMIT.—The term “special use
18 permit” means the December 1, 1993, Special Use Permit
19 issued by the Forest Service to Sandia Peak Tram Com-
20 pany and Sandia Peak Ski Company, encompassing ap-
21 proximately 46 acres of the corridor presently dedicated
22 to aerial tramway use, and approximately 945 acres of the
23 ski area, as well as the lands described generally in Exhibit
24 A to the December 31, 1993, Special Use Permit, includ-
25 ing the maintenance road to the lower tram tower, water

1 storage and distribution facilities, seven helispots, and the
2 other lands described therein.

3 (o) SUBDIVISIONS.—The term “subdivisions” means
4 the subdivisions of Sandia Heights Addition, Sandia
5 Heights North Units I, II, and 3, Tierra Monte, Valley
6 View Acres, and Evergreen Hills, as well as any additional
7 plats and privately owned properties depicted on the map.

8 (p) TRADITIONAL AND CULTURAL USES.—The terms
9 “traditional and cultural uses” and “traditional and cul-
10 tural purposes” mean ceremonial activities, including the
11 placing of ceremonial materials in the Area, and the use,
12 hunting, trapping or gathering of plants, animals, wood,
13 water, and other natural resources, but only for non-com-
14 mercial purposes.

15 **SEC. 4. T’UF SHUR BIEN PRESERVATION TRUST AREA.**

16 (a) ESTABLISHMENT.—The T’uf Shur Bien Preser-
17 vation Trust Area is established within the Cibola Na-
18 tional Forest and the Sandia Mountain Wilderness as de-
19 picted on the map—

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

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

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

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

9 (c) EXCEPTIONS.—

10 (1) Traditional and cultural uses by Pueblo
11 members and members of other federally recognized
12 Indian tribes authorized to use the Area by the
13 Pueblo under section 5(a)(4) of this Act shall not be
14 restricted except by the Wilderness Act and its regu-
15 lations as they exist on the date of enactment of this
16 Act and by applicable federal wildlife protection laws
17 as provided in section 6(a)(2) of this Act.

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

22 (3) The use of the word “Trust” in the name
23 of the Area is in recognition of the Pueblo’s specific
24 rights and interests in the Area, and does not confer
25 upon the Pueblo the ownership interest that exists

1 when the Secretary of the Interior accepts the title
2 to land in trust for the benefit of an Indian tribe.

3 (d) AREA DEFINED.—

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

7 (2) As soon as practicable after enactment of
8 this Act, the Secretary shall file the map and a legal
9 description of the Area with the Committee on Re-
10 sources of the House of Representatives and with
11 the Committee on Energy and Natural Resources of
12 the Senate. The map and legal description shall be
13 on file and available for public inspection in the Of-
14 fice of the Chief of the Forest Service, Department
15 of Agriculture, Washington, District of Columbia.

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

19 (A) clerical and typographical errors shall
20 be corrected:

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

1 (C) to the extent the map and the lan-
2 guage of this Act conflict, the language of the
3 Act controls.

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

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

19 (g) NO MODIFICATION OF BOUNDARIES.—Creation
20 of the T’uf Shur Bien Preservation Trust Area shall not
21 affect the boundaries of, nor repeal or disestablish the
22 Sandia Mountain Wilderness or the Cibola National For-
23 est. Establishment of the Area does not in any way modify
24 the existing boundary of the Pueblo grant.

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

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

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

11 (2) Perpetual preservation of the Wilderness
12 and National Forest character of the Area under
13 this Act;

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

16 (A) the right to consent or withhold con-
17 sent to new uses;

18 (B) the right to consultation regarding
19 modified uses;

20 (C) the right to consultation regarding the
21 management and preservation of the Area; and

22 (D) the right to dispute resolution proce-
23 dures;

24 (4) Exclusive authority, in accordance with its
25 customs and laws, to administer access to the Area
26 for traditional and cultural uses by members of the

1 Pueblo and of other federally recognized Indian
2 tribes; and

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

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

10 (c) COMPENSABLE INTEREST.—

11 (1) If, by an Act of Congress enacted subse-
12 quent to the effective date of this Act, Congress di-
13 minishes the Wilderness and National Forest des-
14 ignation of the Area by authorizing a use prohibited
15 by section 4(f) in all or any portion of the Area, or
16 denies the Pueblo access for any traditional and cul-
17 tural uses in all or any portion of the Area, the
18 United States shall compensate the Pueblo as if the
19 Pueblo had held a fee title interest in the affected
20 portion of the Area and as though the United States
21 had acquired such interest by legislative exercise of
22 its power of eminent domain, and the restrictions of
23 sections 4(f) and 6(a) shall be disregarded in deter-
24 mining just compensation owed to the Pueblo.

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

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

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

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

12 (2) any exemption from applicable federal wild-
13 life protection laws;

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

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

18 (b) EXCEPTION.—No person who exercises tradi-
19 tional and cultural use rights as authorized in section
20 5(a)(4) of this Act may be prosecuted for a federal wildlife
21 offense requiring proof of a violation of a state law or reg-
22 ulation.

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

24 (a) PROCESS.—

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

9 (2) NEW USES AND ACTIVITIES.—

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

19 (B) Before the Forest Service signs a
20 Record of Decision (ROD) or Decision Notice
21 (DN) for a proposed use or activity, the Forest
22 Service will again request Pueblo consent within
23 30 days of the Pueblo's receipt of the proposed
24 ROD or DN. If the Pueblo refuses to consent,
25 the activity or use will not be authorized. If the

1 Pueblo fails to respond to the consent request
2 within 30 days after the proposed ROD or DN
3 is provided to the Pueblo, the Pueblo will be
4 deemed to have consented to the proposed ROD
5 or DN and the Forest Service may proceed to
6 issue the final ROD or DN.

7 (3) PUBLIC INVOLVEMENT.—For proposed new
8 and modified uses and activities, the public shall be
9 provided notice of—

10 (A) the purpose and need for the proposed
11 action or activity,

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

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

15 Any person may file an action in the United States
16 District Court for the District of New Mexico to
17 challenge Forest Service determinations of what con-
18 stitutes a new or a modified use or activity.

19 (b) EMERGENCIES AND EMERGENCY CLOSURE OR-
20 DERS.—The Forest Service shall retain its existing au-
21 thorities to manage emergency situations, to provide for
22 public safety, and to issue emergency closure orders in the
23 Area subject to applicable law. The Forest Service shall
24 notify the Pueblo of Sandia regarding emergencies, public
25 safety issues, and emergency closure orders as soon as

1 possible. Such actions are not subject to the Pueblo's right
2 to withhold consent to new uses in the Area as set forth
3 in section 5(a)(3)(i).

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

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

13 (2) DISPUTE RESOLUTION PROCESS.—

14 (A) When there is a dispute between the
15 Pueblo and the Forest Service regarding Pueblo
16 traditional and cultural use and Forest Service
17 management of the Area, the party identifying
18 the dispute shall notify the other party in writ-
19 ing addressed to the Governor of the Pueblo or
20 the Regional Forester respectively, setting forth
21 the nature of the dispute. The Regional For-
22 ester or designee and the Governor of the Pueb-
23 lo or designee shall attempt to resolve the dis-
24 pute for no less than 30 days after notice has
25 been provided before filing an action in United

1 States District Court for the District of New
2 Mexico.

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

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

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

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

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

6 (3) The United States shall have jurisdiction
7 over—

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

14 (B) crimes committed by any person in
15 violation of laws and regulations pertaining to
16 the protection and management of National
17 Forests;

18 (C) enforcement of federal criminal laws of
19 general applicability; and

20 (D) any other offense committed by a
21 member of the Pueblo against a non-member of
22 the Pueblo. Any offense which is not defined
23 and punished by federal law in force within the
24 exclusive jurisdiction of the United States shall

1 be defined and punished in accordance with the
2 laws of the State of New Mexico.

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

6 (b) CIVIL JURISDICTION.—

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

13 (2) The Pueblo shall have exclusive civil adju-
14 dicatory jurisdiction over—

15 (A) disputes involving only members of the
16 Pueblo;

17 (B) civil actions brought by the Pueblo
18 against members of the Pueblo; and

19 (C) civil actions brought by the Pueblo
20 against members of other federally recognized
21 Indian tribes for violations of understandings
22 between the Pueblo and that member's tribe re-
23 garding use or access to the Area for traditional
24 and cultural purposes.

1 (3) The Pueblo shall have no regulatory jurisdic-
2 tion over the Area with the exception of—

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

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

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

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

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

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

1 Interior. Such trust land shall be subject to all limitations
2 on use pertaining to the Area contained in this Act.

3 (b) PIEDRA LISA.—The Piedra Lisa tract is excluded
4 from the Area notwithstanding any subsequent acquisition
5 of the tract by the Pueblo. If the Secretary or the Pueblo
6 acquires the Piedra Lisa tract, the tract shall be trans-
7 ferred to the United States and is hereby declared to be
8 held in trust for the Pueblo by the United States and ad-
9 ministered by the Secretary of the Interior subject to all
10 limitations on use pertaining to the Area contained in this
11 Act. The restriction contained in section 6(a)(4) shall not
12 apply outside of Forest Service System trails. Until ac-
13 quired by the Secretary or Pueblo, the jurisdiction of the
14 State of New Mexico and local public bodies over the
15 Piedra Lisa tract and property interests therein shall con-
16 tinue in effect.

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

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

22 (e) LA LUZ TRACT.—The La Luz tract now owned
23 in fee by the Pueblo is excluded from the Area and upon
24 application by the Pueblo shall be transferred to the
25 United States and held in trust for the Pueblo by the

1 United States and administered by the Secretary of the
2 Interior subject to all limitations on use pertaining to the
3 Area contained in this Act. The restriction contained in
4 section 6(a)(4) shall not apply outside of Forest Service
5 System trails.

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

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

18 (h) RIGHTS-OF-WAY.—

19 (1) ROAD RIGHTS-OF-WAY.—

20 (A) In accordance with the Pueblo having
21 given its consent in the Settlement Agreement,
22 the Secretary of the Interior shall grant to the
23 County of Bernalillo, New Mexico, in per-
24 petuity, the following irrevocable rights of way
25 for roads identified on the map in order to pro-

1 vide for public access to the subdivisions, the
2 special use permit land and facilities, the other
3 leasehold and easement rights and interests of
4 the Sandia Peak Tram Company and its affili-
5 ates, the Sandia Heights South Subdivision,
6 and the Area—

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

8 (ii) a right-of-way for Juniper Hill
9 Road North;

10 (iii) a right-of-way for Juniper Hill
11 Road South;

12 (iv) a right-of-way for Sandia Heights
13 Road; and

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

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

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

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

1 (iii) Except as provided in the Settle-
2 ment Agreement, existing rights-of-way or
3 leasehold interests and obligations held by
4 the Sandia Peak Tram Company and its
5 affiliates, shall be preserved, protected, and
6 unaffected by this Act.

7 (2) UTILITY RIGHTS-OF-WAY.—In accordance
8 with the Pueblo having given its consent in the Set-
9 tlement Agreement, the Secretary of the Interior
10 shall grant irrevocable utility rights-of-way in per-
11 petuity across Pueblo lands to appropriate utility or
12 other service providers serving Sandia Heights Addi-
13 tion, Sandia Heights North Units I, II, and 3, the
14 special use permit lands, Tierra Monte, and Valley
15 View Acres, including rights-of-way for natural gas,
16 power, water, telecommunications, and cable tele-
17 vision services. Such rights-of-way shall be within ex-
18 isting utility corridors as depicted on the map or, for
19 certain water lines, as described in the existing grant
20 of easement to the Sandia Peak Utility Company;
21 provided that use of water line easements outside
22 the utility corridors depicted on the map shall not be
23 used for utility purposes other than water lines and
24 associated facilities. Except where above-ground fa-
25 cilities already exist, all new utility facilities shall be

1 installed underground unless the Pueblo agrees oth-
2 erwise. To the extent that enlargement of existing
3 utility corridors is required for any technologically-
4 advanced telecommunication, television, or utility
5 services, the Pueblo shall not unreasonably withhold
6 agreement to a reasonable enlargement of the ease-
7 ments described above.

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

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

18 (2) A right-of-way for the extension of the
19 Foothills Trail (Trail No. 365A), as identified on the
20 map; and

21 (3) A right-of-way for that portion of the
22 Piedra Lisa North-South Trail (Trail No. 135)
23 crossing the Piedra Lisa tract, if the Pueblo ever ac-
24 quires the Piedra Lisa tract.

1 **SEC. 10. EXTINGUISHMENT OF CLAIMS.**

2 (a) GENERAL.—Except for the rights and interests
3 in and to the Area specifically recognized in sections 4,
4 5, 7, 8, and 9, all Pueblo claims to right, title and interest
5 of any kind, including aboriginal claims, in and to lands
6 within the Area, any part thereof, and property interests
7 therein, as well as related boundary, survey, trespass, and
8 monetary damage claims, are hereby permanently extin-
9 guished. The United States' title to the Area is hereby
10 confirmed.

11 (b) SUBDIVISIONS.—Any Pueblo claims to right, title
12 and interest of any kind, including aboriginal claims, in
13 and to the subdivisions and property interests therein
14 (except for land owned in fee by the Pueblo as of the date
15 of enactment of this Act), as well as related boundary,
16 survey, trespass, and monetary damage claims, are hereby
17 permanently extinguished.

18 (c) SPECIAL USE AND CREST FACILITIES AREAS.—
19 Any Pueblo right, title and interest of any kind, including
20 aboriginal claims, and related boundary, survey, trespass,
21 and monetary damage claims, are hereby permanently ex-
22 tinguished in and to—

23 (1) the lands described in the special use per-
24 mit; and

25 (2) the lands on which the crest facilities are lo-
26 cated.

1 (d) PUEBLO AGREEMENT.—As provided in the Set-
2 tlement Agreement, the Pueblo has agreed to the relin-
3 quishment and extinguishment of those claims, rights, ti-
4 tles and interests extinguished pursuant to subsection (a),
5 (b) and (c) of this section.

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

15 **SEC. 11. CONSTRUCTION.**

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

20 (b) EXISTING RIGHTS.—To the extent there exists
21 within the Area at the time of enactment of this Act any
22 valid private property rights associated with the Piedra
23 Lisa tract or other private lands that are not otherwise
24 addressed in this Act, such rights are not modified or oth-
25 erwise affected by this Act, nor is the exercise of any such

1 right subject to the Pueblo's right to withhold consent to
2 new uses in the Area as set forth in section 5(a)(3)(i).

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

10 (d) FISH AND WILDLIFE.—Except as provided in sec-
11 tion 8(b)(3), nothing in this Act shall be construed as af-
12 fecting the responsibilities of the State of New Mexico with
13 respect to fish and wildlife, including the regulation of
14 hunting, fishing, or trapping within the Area.

15 (e) FEDERAL LAND POLICY AND MANAGEMENT
16 ACT.—Section 316 (43 U.S.C. 1746) of the Federal Land
17 Policy and Management Act of 1976 (43 U.S.C. 1701 et
18 seq.) is amended by adding the following sentence at the
19 end thereof: “Any corrections authorized by this section
20 which affect the boundaries of, or jurisdiction over, lands
21 administered by another Federal agency shall be made
22 only after consultation with, and the approval of, the head
23 of such other agency.”

1 **SEC. 12. JUDICIAL REVIEW.**

2 (a) ENFORCEMENT.—Suit to enforce the provisions
3 of this Act may be brought to the extent permitted under
4 chapter 7 of title 5, United States Code. Judicial review
5 shall be based upon the administrative record and subject
6 to the applicable standard of review set forth in section
7 706 of title 5.

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

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

17 **SEC. 13. EFFECTIVE DATE.**

18 The provisions of this Act shall take effect imme-
19 diately upon enactment of this Act.

20 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS AND RE-**
21 **LATED AUTHORITIES.**

22 (a) GENERAL.—There are hereby authorized to be
23 appropriated such sums as may be necessary to carry out
24 this Act, including such sums as may be necessary for the
25 Forest Service to acquire ownership of, or other interest

1 in, lands within the external boundaries of the Area as
2 authorized in subsection (d).

3 (b) CONTRIBUTIONS.—

4 (1) The Secretary is authorized to accept con-
5 tributions from the Pueblo, or from other persons or
6 governmental entities, to perform and complete a
7 survey of the Area, or otherwise for the benefit of
8 the Area in accordance with this Act.

9 (2) The Secretary shall complete a survey of
10 the Area within one year of the date of enactment
11 of this Act.

12 (c) LAND EXCHANGE.—Within 180 days after the
13 date of enactment of this Act, after consultation with the
14 Pueblo, the Secretary is directed in accordance with appli-
15 cable laws to prepare and offer a land exchange of Na-
16 tional Forest lands outside the Area and contiguous to the
17 northern boundary of the Pueblo's Reservation within sec-
18 tions 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval
19 County, New Mexico excluding Wilderness land, for lands
20 owned by the Pueblo in the Evergreen Hills subdivision
21 in Sandoval County contiguous to National Forest land,
22 and the La Luz tract in Bernalillo County. Notwith-
23 standing section 206(b) of the Federal Land Policy and
24 Management Act (43 U.S.C. 1716(b)), the Secretary may
25 either make or accept a cash equalization payment in ex-

1 cess of 25 percent of the total value of the lands or inter-
2 ests transferred out of Federal ownership. Any funds re-
3 ceived by the Secretary as a result of the exchange shall
4 be deposited in the fund established under the Act of De-
5 cember 4, 1967, known as the Sisk Act (16 U.S.C. 484a),
6 and shall be available to purchase non-Federal lands with-
7 in or adjacent to the National Forests in the State of New
8 Mexico. All lands exchanged or conveyed to the Pueblo are
9 hereby declared to be held in trust for the Pueblo by the
10 United States and added to the Pueblo's Reservation sub-
11 ject to all existing and outstanding rights and shall remain
12 in their natural state and shall not be subject to commer-
13 cial development of any kind. Lands exchanged or con-
14 veyed to the Forest Service shall be subject to all limita-
15 tions on use pertaining to the Area under this Act. If the
16 land exchange offer is not made within 180 days after the
17 date of enactment of this Act, the Secretary shall submit
18 to the Committee on Energy and Natural Resources of
19 the United States Senate and the Committee on Resources
20 of the United States House of Representatives, a report
21 explaining the reasons for the failure to make the offer
22 including an assessment of the need for any additional leg-
23 islation that may be necessary for the exchange. If addi-
24 tional legislation is not necessary, the Secretary, con-

1 sistent with this section, should proceed with the exchange
2 pursuant to existing law.

3 (d) LAND ACQUISITION.—

4 (1) The Secretary is authorized to acquire lands
5 owned by the Pueblo within the Evergreen Hills
6 Subdivision in Sandoval County on any other pri-
7 vately held lands inside of the exterior boundaries of
8 the Area. The boundaries of the Cibola National
9 Forest and the Area shall be adjusted to encompass
10 any lands acquired pursuant to this section.

11 (2) In the event the Pueblo acquires the Piedra
12 Lisa tract, the Secretary shall compensate the Pueb-
13 lo for the fair market value of—

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

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

19 (e) REIMBURSEMENT OF CERTAIN COSTS.—

20 (1) The Pueblo, the County of Bernalillo, New
21 Mexico, and any person who owns or has owned
22 property inside of the exterior boundaries of the
23 Area as designated on the map, and who has in-
24 curred actual and direct costs as a result of partici-
25 pating in the case of Pueblo of Sandia v. Babbit,

1 Civ. No. 94–2624 HHG (D.D.C.), or other pro-
2 ceedings directly related to resolving the issues liti-
3 gated in that case, may apply for reimbursement in
4 accordance with this section. Costs directly related
5 to such participation which shall qualify for reim-
6 bursement shall be—

7 (A) dues or payments to a homeowner as-
8 sociation for the purpose of legal representa-
9 tion; and

10 (B) legal fees and related expenses.

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

15 (3) The Secretary of the Treasury is authorized
16 and directed to make reimbursement payments as
17 provided in this section out of any money not other-
18 wise appropriated.

19 (4) Applications for reimbursement shall be
20 filed within 180 days of the date of enactment of
21 this Act with the Department of the Treasury, Fi-
22 nancial Management Service, Washington, DC.

23 (5) In no event shall any one party be com-
24 pensated in excess of \$750,000 and the total amount

1 reimbursed pursuant to this section shall not exceed
2 \$3,000,000.

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