

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5842

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## AN ACT

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 a trust fund, to be known as the “Pueblo of  
9 Isleta Natural Resources Restoration Fund”, consisting  
10 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 under 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 subsection (b)(2)  
13 of this section and section V of the Settlement  
14 Agreement, in accordance with the terms and  
15 conditions of the Settlement Agreement and  
16 this Act, on the condition that before any such  
17 distribution the Secretary receives from the  
18 Pueblo such assurances as are satisfactory to  
19 the Secretary 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           (2) CREDITS TO RESTORATION FUND.—The in-  
2           terest on, and the proceeds from the sale or redemp-  
3           tion of, any obligations held in the Restoration Fund  
4           shall be credited to, and form a part of, the Restora-  
5           tion Fund.

6           (e) PROHIBITION ON PER-CAPITA PAYMENTS.—No  
7           portion of the amounts in the Restoration Fund shall be  
8           available for payment on a per capita basis to members  
9           of the Pueblo.

10          (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
11          authorized to be appropriated to the Restoration Fund  
12          \$7,200,000.

13       **SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF**  
14                               **LITIGATION, AND COMPENSATION TO PUEB-**  
15                               **LO.**

16          (a) RATIFICATION OF SETTLEMENT AGREEMENT.—  
17          The Settlement Agreement is ratified.

18          (b) DISMISSAL.—Not later than 90 days after the  
19          date of the enactment of this Act, the Pueblo and the  
20          United States shall execute and file a joint stipulation for  
21          entry of final judgment in the case of Pueblo of Isleta v.  
22          United States, Docket 98–166L, in the United States  
23          Court of Federal Claims in such form and such manner  
24          as are acceptable to the Attorney General and the Pueblo.

1 (c) COMPENSATION.—After the date of the enact-  
2 ment of this Act, in accordance with the Settlement Agree-  
3 ment and upon entry of the final judgment described in  
4 subsection (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 or any water right of the Pueblo.

Passed the House of Representatives September 27,  
2006.

Attest:

*Clerk.*

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