

Calendar No. 738

107TH CONGRESS
2^D SESSION

S. 2018

[Report No. 107-285]

[Report No. 107-321]

To establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2002

Mr. BINGAMAN introduced the following bill; which was read twice and referred jointly to the Committees on Energy and Natural Resources, and Indian Affairs, with instructions that if one committee reports, the other committee have twenty calendar days, excluding any period where the Senate is not in session for more than three days, to report or be discharged

SEPTEMBER 17, 2002

Reported by Mr. BINGAMAN, with an amendment in the nature of a substitute
[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 17, 2002

Referred to the Committee on Indian Affairs pursuant to the order of March 14, 2002

OCTOBER 7, 2002

Committee discharged pursuant to the order of March 14, 2002, and placed on the calendar

OCTOBER 11 (legislative day, OCTOBER 10), 2002

Ordered referred to the Committee on Indian Affairs

OCTOBER 17, 2002

Reported by Mr. INOUE, with an amendment in the nature of a substitute

[Omit the part in bold brackets and insert the part in bold italic]

A BILL

To establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, 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
 11 Pueblo filed a lawsuit against the Secretary of the Interior
 12 and the Secretary of Agriculture in the U.S. District
 13 Court for the District of Columbia, Civil No.
 14 1:94CV02624, asserting that Federal surveys of the grant
 15 boundaries erroneously excluded certain lands within the
 16 Cibola National Forest, including a portion of the Sandia
 17 Mountain Wilderness;

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

1 (1) establish the T'uf Shur Bien Preservation
2 Trust Area in the Cibola National Forest;

3 (2) confirm the status of National Forest and
4 Wilderness lands in the Area while resolving issues
5 associated with the Pueblo's lawsuit and the opin-
6 ions of the Solicitor of the Department of the Inte-
7 rior dated December 9, 1988 (M-36963; 96 I.D.
8 331) and January 19, 2001 (M-37002); and

9 (3) provide the Pueblo, parties involved in the
10 litigation, and the public with a fair and just settle-
11 ment of the Pueblo's claim.

12 **SEC. 3. DEFINITIONS.**

13 For purposes of this Act:

14 (a) **AREA.**—The term “Area” means the T'uf Shur
15 Bien Preservation Trust Area as depicted on the map, and
16 excludes the subdivisions and other privately and publicly
17 owned lands as set forth in this Act and the Settlement
18 Agreement.

19 (b) **CREST FACILITIES.**—The term “crest facilities”
20 means all facilities and developments located on the crest
21 of Sandia Mountain, including the Sandia Crest Electronic
22 Site; electronic site access roads; the Crest House; the
23 upper terminal; restaurant, and related facilities of Sandia
24 Peak Tram Company; the Crest Observation Area; park-
25 ing lots; restrooms; the Crest Trail (Trail No. 130); hang

1 glider launch sites; and the Kiwanis cabin; as well as the
 2 lands upon which such facilities are located and the lands
 3 extending 100 feet to the west of each such facility; unless
 4 a different distance is agreed to in writing between the
 5 Forest Service and the Pueblo and documented in the sur-
 6 vey of the Area.

7 (c) FOREST SERVICE.—The term “Forest Service”
 8 means the U.S. Forest Service.

9 (d) LA LUZ TRACT.—The term “La Luz tract”
 10 means that tract comprised of approximately 31 acres of
 11 land owned in fee by the Pueblo and depicted on the map.

12 (e) LOCAL PUBLIC BODIES.—The term “local public
 13 bodies” means political subdivisions of the State of New
 14 Mexico as defined in New Mexico Code section 6-5-1.

15 (f) MANAGEMENT PLAN.—The term “Management
 16 Plan” means the T’uf Shur Bien Preservation Trust Area
 17 Management Plan, attached as an exhibit to the Settle-
 18 ment Agreement.

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

22 (h) PIEDRA LISA TRACT.—The term “Piedra Lisa
 23 tract” means that tract comprised of approximately 160
 24 acres of land held in private ownership and depicted on
 25 the map.

1 (i) PUEBLO.—The term “Pueblo” means the Pueblo
2 of Sandia in its governmental capacity.

3 (j) SECRETARY.—The term “Secretary” means the
4 Secretary of Agriculture, except where otherwise expressly
5 indicated.

6 (k) SETTLEMENT AGREEMENT.—The term “Settle-
7 ment Agreement” means the Agreement of Compromise
8 and Settlement dated April 4, 2000, between the United
9 States, the Pueblo, and the Sandia Peak Tram Company.

10 (l) SPECIAL USE PERMIT.—The term “special use
11 permit” means the December 1, 1993, Special Use Permit
12 issued by the Forest Service to Sandia Peak Tram Com-
13 pany and Sandia Peak Ski Company, encompassing ap-
14 proximately 46 acres of the corridor presently dedicated
15 to aerial tramway use, and approximately 945 acres of the
16 ski area, as well as the lands described generally in exhibit
17 A to the December 31, 1993, Special Use Permit, includ-
18 ing the maintenance road to the lower tram tower, water
19 storage and distribution facilities, seven helispots, and the
20 other lands described therein.

21 (m) SUBDIVISIONS.—The term “subdivisions” means
22 the subdivisions of Sandia Heights Addition, Sandia
23 Heights North Units I, II, and 3, Tierra Monte, and Ever-
24 green Hills, as well as additional plats and privately owned
25 properties as further described in the Settlement Agree-

1 ment and depicted on the map; exclusive of the property
 2 now owned or hereafter acquired by the Pueblo or the For-
 3 est Service in the subdivisions.

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

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

12 (a) **ESTABLISHMENT.**—The T'uf Shur Bien Preser-
 13 vation Trust Area is established within the Cibola Na-
 14 tional Forest and the Sandia Mountain Wilderness as de-
 15 picted on the map:

16 (1) to recognize and protect in perpetuity the
 17 Pueblo's rights and interests in and to the Area; as
 18 specified in section 5(a) of this Act;

19 (2) to preserve in perpetuity the wilderness and
 20 National Forest character of the Area; and

21 (3) to recognize and protect in perpetuity the
 22 public's longstanding use and enjoyment of the Area.

23 (b) **ADMINISTRATION AND APPLICABLE LAW.**—The
 24 Secretary, acting through the Forest Service, shall con-
 25 tinue to administer the Area on behalf of the United

1 States as National Forest System lands under this Act,
2 the Wilderness Act, other laws and regulations applicable
3 to the National Forest System, and the Management Plan
4 (which is incorporated herein by reference) to accomplish
5 the purposes of the Area as set forth in subsection (a)
6 of this section.

7 (c) EXCEPTIONS.—

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

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

20 (3) In implementing the Management Plan,
21 both Bernalillo and Sandoval County, acting through
22 their respective County Commissions, whichever is
23 applicable based on the location of the land affected,
24 shall be afforded the right to consent or withhold
25 consent to new uses within the Area subject to the

1 same limitations placed on the Pueblo in the Man-
2 agement Plan.

3 (d) AREA DEFINED.—The Area shall be comprised
4 of approximately 9890 acres of land within the Cibola Na-
5 tional Forest as depicted on the map. As soon as prae-
6 ticable after enactment of this Act, the Secretary shall file
7 the map and a legal description of the Area with the Com-
8 mittee on Resources of the House of Representatives and
9 with the Committee on Energy and Natural Resources.
10 Such map and legal description shall have the same force
11 and effect as if included in this Act, except that clerical
12 and typographical errors shall be corrected, and changes
13 that may be necessary pursuant to section 8(b), 8(d), and
14 8(e) shall be made. The map and legal description shall
15 be on file and available for public inspection in the Office
16 of the Chief of the Forest Service, Department of Agri-
17 culture, Washington, District of Columbia.

18 (e) NO CONVEYANCE OF TITLE.—The United States
19 right, title and interest in or to the Area or any part there-
20 of shall not be conveyed to or exchanged with any person,
21 trust, or governmental entity, including the Pueblo, with-
22 out specific authorization of Congress.

23 (f) PROHIBITED USES.—Notwithstanding any other
24 provision of law, no use prohibited by the Wilderness Act
25 as of the date of enactment of this Act may occur in the

1 wilderness portion of the Area; nor may any of the fol-
 2 lowing uses occur in any portion of the Area: gaming or
 3 gambling of any kind, mineral production, timber produc-
 4 tion, and uses that are described in section 4(d)(4) of the
 5 Wilderness Act (16 U.S.C. 1133(d)(4)). The Area is
 6 closed to the location of mining claims under the Mining
 7 Law of 1872 (30 U.S.C. 22).

8 (g) NO MODIFICATION OF BOUNDARIES.—Nothing
 9 herein shall affect the boundaries of, or shall repeal or
 10 disestablish the Sandia Mountain Wilderness or the Cibola
 11 National Forest. Establishment of the Area does not in
 12 any way modify the boundary of the Pueblo grant.

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

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

17 (1) free and unrestricted access to the Area for
 18 traditional and cultural uses to the extent not incon-
 19 sistent with the Wilderness Act and its regulations
 20 as they exist on the date of enactment of this Act
 21 and with applicable Federal wildlife protection laws
 22 as provided in section 6(a)(2), which right shall be
 23 compensable to the extent provided in subsection (c);

24 (2) perpetual preservation of the wilderness and
 25 National Forest character of the Area under this

1 Act, which shall be compensable to the extent pro-
2 vided in subsection (c);

3 ~~(3) rights in the management of the Area speci-~~
4 ~~fied in the Management Plan which include:~~

5 (A) the right to consent or withhold con-
6 sent to new uses;

7 (B) the right to consultation regarding
8 modified uses;

9 (C) the right to consultation regarding the
10 management and preservation of the Area; and

11 (D) the right to dispute resolution proce-
12 dures;

13 (4) exclusive authority, in accordance with its
14 customs and laws, to administer access to the Area
15 for traditional and cultural uses by members of the
16 Pueblo and of other federally recognized Indian
17 tribes; and

18 ~~(5) such other rights and interests as are enu-~~
19 ~~merated and recognized in sections 4, 5(c), 7, and~~
20 ~~8.~~

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

25 (c) COMPENSABLE INTEREST.—

1 (1) If, by an Act of Congress enacted subse-
2 quent to the effective date of this Act, Congress di-
3 minishes the wilderness and National Forest char-
4 acter of the Area by authorizing a use prohibited by
5 section 4(f) in all or any portion of the Area, or per-
6 manently denies the Pueblo access for any tradi-
7 tional and cultural uses in all or any portion of the
8 Area, the United States shall compensate the Pueblo
9 as if the Pueblo had held a fee title interest in the
10 affected portion of the Area and as though the
11 United States had acquired such interest by legisla-
12 tive exercise of its power of eminent domain, and the
13 restrictions of sections 4(f) and 6(a) shall be dis-
14 regarded in determining just compensation owed to
15 the Pueblo.

16 (2) Any compensation made to the Pueblo pur-
17 suant to subsection (c)(1) does not in any way affect
18 the extinguishment of claims set forth in section 9.

19 **SEC. 6. LIMITATIONS ON PUEBLO OF SANDIA RIGHTS AND**
20 **INTERESTS IN THE AREA.**

21 (a) **LIMITATION.**—The Pueblo’s rights and interests
22 recognized in this Act do not include:

23 (1) any right to sell, grant, lease, convey, en-
24 cumber or exchange lands in the Area, or any right

1 or interest therein, and any such conveyance shall
 2 not have validity in law or equity;

3 ~~(2) any exemption from applicable Federal wild-~~
 4 ~~life protection laws;~~

5 ~~(3) any right to engage in any activity or use~~
 6 ~~prohibited in section 4(f); or~~

7 ~~(4) any right to exclude persons or govern-~~
 8 ~~mental entities from the Area.~~

9 ~~(b) EXCEPTION.—No person who exercises tradi-~~
 10 ~~tional and cultural use rights as authorized in section~~
 11 ~~5(a)(4) of this Act may be prosecuted for a Federal wild-~~
 12 ~~life offense requiring proof of a violation of a State law~~
 13 ~~or regulation.~~

14 **SEC. 7. JURISDICTION OVER THE AREA.**

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

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

23 ~~(2) The Pueblo shall have jurisdiction over~~
 24 ~~crimes committed by its members or by members of~~
 25 ~~another federally recognized Indian tribe who are~~

1 present in the Area with the Pueblo's permission
2 pursuant to section 5(a)(4).

3 ~~(3) The United States shall have jurisdiction~~
4 ~~over—~~

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

11 (B) crimes committed by any person in
12 violation of laws and regulations pertaining to
13 the protection and management of National
14 Forests;

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

17 (D) any other offense committed by a
18 member of the Pueblo against a non-member of
19 the Pueblo. Any offense which is not defined
20 and punished by Federal law in force within the
21 exclusive jurisdiction of the United States shall
22 be defined and punished in accordance with the
23 laws of the State of New Mexico.

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

4 (b) CIVIL JURISDICTION.—

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

11 (2) The Pueblo shall have exclusive civil adju-
12 dicatory jurisdiction over—

13 (A) disputes involving only members of the
14 Pueblo;

15 (B) civil actions brought by the Pueblo
16 against members of the Pueblo; and

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

23 (3) The Pueblo shall have no regulatory juris-
24 diction over the Area with the exception of:

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

7 (B) The Pueblo shall have exclusive au-
8 thority to regulate hunting and trapping in the
9 Area by its members that is related to tradi-
10 tional and cultural purposes. Such authority
11 shall not vest or continue until the Pueblo en-
12 acts and thereafter maintains and enforces reg-
13 ulations substantially similar to those of the
14 State of New Mexico concerning seasons, game
15 management, types of weapons, proximity of
16 hunting and trapping to trails and residences,
17 and comparable safety restrictions. Prior to
18 adopting such regulations, the Pueblo shall pro-
19 vide the Forest Service and the New Mexico
20 Game and Fish Department with notice and an
21 opportunity to comment on the regulations. The
22 Pueblo shall consult and exchange information
23 with the New Mexico Game and Fish Depart-
24 ment on a periodic basis to assist the Depart-

1 ment with its ongoing responsibility to protect
2 wildlife populations within the Area.

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

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

11 **SEC. 8. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.**

12 (a) SUBDIVISIONS.—The subdivisions are excluded
13 from the Area. The Pueblo shall have no civil or criminal
14 jurisdiction for any purpose, including without limitation
15 adjudicatory, taxing, zoning, regulatory or any other form
16 of jurisdiction, over the subdivisions and property interests
17 therein, and the laws of the Pueblo shall not apply to the
18 subdivisions. The jurisdiction of the State of New Mexico
19 and local public bodies over the subdivisions and property
20 interests therein shall continue in effect.

21 (b) PIEDRA LISA.—The Piedra Lisa tract is excluded
22 from the Area notwithstanding any subsequent acquisition
23 of the tract by the Pueblo. If the Forest Service acquires
24 the tract, it shall be included in the Area. Unless the
25 Piedra Lisa tract is acquired by the Pueblo, the Pueblo

1 shall have no civil or criminal jurisdiction over the tract
2 and property interests therein, and the laws of the Pueblo
3 shall not apply to the tract. Except as provided in sub-
4 section (c), the jurisdiction of the State of New Mexico
5 and local bodies over the Piedra Lisa tract and property
6 interests therein shall continue in effect. If the Forest
7 Service acquires the tract, the jurisdictional provisions of
8 section 7 of this Act shall apply.

9 (c) CREST FACILITIES.—The lands on which the
10 crest facilities are located are excluded from the Area. The
11 Pueblo shall have no civil or criminal jurisdiction for any
12 purpose, including without limitation adjudicatory, taxing,
13 zoning, regulatory or any other form of jurisdiction, over
14 the lands on which the crest facilities are located and
15 property interests therein, and the laws of the Pueblo shall
16 not apply to those lands. The pre-existing jurisdictional
17 status of those lands shall continue in effect.

18 (d) SPECIAL USE PERMIT AREA.—The lands de-
19 scribed in the special use permit are excluded from the
20 Area. The Pueblo shall have no civil or criminal jurisdic-
21 tion for any purpose, including without limitation adju-
22 dicatory, taxing, zoning, regulatory, or any other form of
23 jurisdiction, over the lands described in the special use
24 permit, and the laws of the Pueblo shall not apply to those
25 lands. The pre-existing jurisdictional status of these lands

1 shall continue in effect. In the event the special use per-
2 mit, during its existing term or any future terms or exten-
3 sions, requires amendment to include other lands in the
4 Area necessary to realign the existing or any future re-
5 placement tram line, associated structures, or facilities,
6 the lands subject to that amendment shall thereafter be
7 excluded from the Area and shall have the same status
8 under this Act as the lands currently described in the spe-
9 cial use permit. Any lands dedicated to aerial tramway and
10 related uses and associated facilities that are excluded
11 from the special use permit through expiration, termi-
12 nation or the amendment process shall thereafter be in-
13 cluded in the Area but only after final agency action is
14 no longer subject to any appeals.

15 (c) LA LUZ TRACT AND SUBSEQUENT ACQUI-
16 TION.—The La Luz tract now owned in fee by the Pueblo
17 is excluded from the Area and shall be transferred to the
18 United States and held in trust for the Pueblo by the
19 United States and administered by the Secretary of the
20 Interior. If the Pueblo acquires the Piedra Lisa tract, the
21 tract shall be transferred to the United States and held
22 in trust for the Pueblo by the United States and adminis-
23 tered by the Secretary of the Interior. Such trust land
24 shall be subject to all limitations on use pertaining to the
25 Area contained in this Act. The restriction contained in

1 section 6(a)(4) shall not apply outside of Forest Service
2 System trails. The State of New Mexico and local public
3 bodies shall have no authority to tax or regulate the activi-
4 ties or the property of the Pueblo or its members with
5 respect to such trust lands.

6 (f) FOREST SERVICE LANDS.—

7 (1) Title to lands consisting of approximately
8 0.314 acre, and any improvements thereon, which
9 are located within the Evergreen Hills subdivision
10 and administered by the Forest Service, shall be
11 transferred to the Pueblo. Such lands are excluded
12 from the Area, shall be subject to the jurisdictional
13 provisions of subsection (a) of this section, and shall
14 be subject to all limitations on use pertaining to the
15 Area contained in this Act.

16 (2) Lands consisting of approximately 0.419
17 acre, and any improvements thereon, which are lo-
18 cated within the Evergreen Hills subdivision, admin-
19 istered by the Forest Service, and contiguous to the
20 tract of approximately 39 contiguous acres owned in
21 fee by the Pueblo in the Evergreen Hills subdivision
22 shall be transferred to the Pueblo. Such lands are
23 excluded from the Area, shall be subject to the juris-
24 dictional provisions of subsection (a) of this section,

1 and shall be subject to all limitations on use per-
 2 taining to the Area contained in this Act.

3 ~~(g) PUEBLO FREE LANDS.~~—Those properties not ad-
 4 dressed in subsections (e) or (f) of this section that are
 5 owned in fee by the Pueblo within the subdivisions are ex-
 6 cluded from the Area and shall be subject to the jurisdic-
 7 tional provisions of subsection (a) of this section.

8 ~~(h) RIGHTS-OF-WAY.~~—

9 ~~(1) ROAD RIGHTS-OF-WAY.~~—(A) In accordance
 10 with the Pueblo having given its consent in the Set-
 11 tlement Agreement, the Secretary of the Interior
 12 shall grant to the County of Bernalillo, New Mexico,
 13 in perpetuity, the following irrevocable rights of way
 14 for roads identified on the map and described in the
 15 Settlement Agreement in order to provide for public
 16 access to the subdivisions, the special use permit
 17 land and facilities, the Sandia Peak interests as de-
 18 scribed in the Settlement Agreement, the Sandia
 19 Heights South Subdivision, and the Area:

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

21 (ii) a right-of-way for Juniper Hill Road
 22 North;

23 (iii) a right-of-way for Juniper Hill Road
 24 South;

1 (iv) a right-of-way for Sandia Heights
2 Road; and

3 (v) a right-of-way for Juan Tabo Canyon
4 Road (Forest Road No. 333).

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

7 (i) Such rights-of-way may not be ex-
8 panded or otherwise modified without the Pueb-
9 lo's written consent, but road maintenance to
10 the rights of way shall not be subject to Pueblo
11 consent;

12 (ii) The rights-of-way shall not authorize
13 uses for any purpose other than roads without
14 the Pueblo's written consent.

15 (iii) Existing rights-of-way or leasehold in-
16 terests held by the Sandia Peak Tram Com-
17 pany, as described in the Settlement Agree-
18 ment, shall be preserved and protected.

19 (2) UTILITY RIGHTS-OF-WAY.—In accordance
20 with the Pueblo having given its consent in the Set-
21 tlement Agreement, the Secretary of the Interior
22 shall grant irrevocable utility rights-of-way in per-
23 petuity across Pueblo lands to appropriate utility or
24 other service providers serving Sandia Heights Addi-
25 tion, Sandia Heights North Units I, H, and 3, and

1 Tierra Monte, including rights-of-way for natural
 2 gas utility service and cable television service. Such
 3 rights-of-way shall be within existing utility cor-
 4 ridors. Except where above-ground facilities already
 5 exist, all new utility facilities shall be installed un-
 6 derground unless the Pueblo agrees otherwise. To
 7 the extent that enlargement of existing utility cor-
 8 ridors is required for any technologically-advanced
 9 telecommunication, television, or utility services, the
 10 Pueblo shall not unreasonably withhold agreement to
 11 a reasonable enlargement of the easements described
 12 above.

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

20 (1) a right-of-way for a portion of the Crest
 21 Spur Trail (Trail No. 84), crossing a portion of the
 22 La Luz tract, as identified on the map and described
 23 in the Settlement Agreement;

24 (2) a right-of-way for the extension of the Foot-
 25 hills Trail (Trail No. 365A), as identified on the

1 map and described in the Settlement Agreement;
2 and

3 ~~(3) a right-of-way for that portion of the Piedra~~
4 ~~Lisa North-South Trail (Trail No. 135) crossing the~~
5 ~~Piedra Lisa tract, if the Pueblo ever acquires the~~
6 ~~Piedra Lisa tract.~~

7 **SEC. 9. EXTINGUISHMENT OF CLAIMS.**

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

17 (b) SUBDIVISIONS AND PIEDRA LISA.—Any Pueblo
18 claims to right, title and interest of any kind, including
19 aboriginal claims, in and to the subdivisions and the
20 Piedra Lisa tract and property interests therein, as well
21 as related boundary, survey, trespass, and monetary dam-
22 age claims, are hereby permanently extinguished.

23 (c) SPECIAL USE AND CREST FACILITIES AREAS.—
24 Any Pueblo right, title and interest of any kind, including
25 aboriginal claims, and related boundary, survey, trespass,

1 and monetary damage claims, are hereby permanently ex-
2 tinguished in and to—

3 (1) the lands described in the special use per-
4 mit; and

5 (2) the lands on which the crest facilities are lo-
6 cated.

7 (d) PUEBLO AGREEMENT.—As provided in the Set-
8 tlement Agreement, the Pueblo has agreed to the relin-
9 quishment and extinguishment of those claims, rights, ti-
10 tles and interests extinguished pursuant to subsection (a),
11 (b) and (c) of this section.

12 (e) CONSIDERATION.—The recognition of the Pueb-
13 lo's rights and interests in this Act constitutes adequate
14 consideration for the Pueblo's agreement to the extin-
15 guishment of the Pueblo's claims in this section and the
16 right-of-way grants contained in section 8, and it is the
17 intent of Congress that those rights and interests may
18 only be diminished by a future Act of Congress specifically
19 authorizing such diminishment of such rights, with ex-
20 press reference to this Act.

21 **SEC. 10. CONSTRUCTION.**

22 (a) STRICT CONSTRUCTION.—This Act, the Settle-
23 ment Agreement, and the Management Plan recognize
24 only enumerated rights and interests, and no additional

1 rights, interests, obligations, or duties shall be created by
2 implication.

3 (b) **EXISTING RIGHTS.**—To the extent any valid pri-
4 vate property rights exist within the Area that are not oth-
5 erwise addressed in this Act or in the Settlement Agree-
6 ment, such rights are not modified or otherwise affected
7 by this Act.

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

15 (d) **FISH AND WILDLIFE.**—Except as provided in see-
16 tion 7(b)(3)(B), nothing in this Act shall be construed as
17 affecting the responsibilities of the State of New Mexico
18 with respect to fish and wildlife, including the regulation
19 of hunting, fishing, or trapping within the Area.

20 **SEC. 11. JUDICIAL REVIEW.**

21 (a) **ENFORCEMENT.**—Suit to enforce the provisions
22 of this Act or the Management Plan may be brought to
23 the extent permitted under chapter 7 of title 5, U.S. Code.
24 Judicial review shall be based upon the administrative

1 record and subject to the applicable standard of review
2 set forth in section 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, the Settlement Agreement or the Management Plan,
6 but no money damages, including costs or attorney’s fees,
7 may be imposed on the Pueblo as a result of such judicial
8 action. The United States consents to and ratifies the
9 waiver of sovereign immunity by the Pueblo contained in
10 the Settlement Agreement.

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

15 **SEC. 12. RATIFICATION OF SETTLEMENT AGREEMENT AND**
16 **MANAGEMENT PLAN.**

17 The Settlement Agreement and Management Plan,
18 having been modified to conform to this Act, are hereby
19 ratified and confirmed by the United States.

20 **SEC. 13. EFFECTIVE DATE.**

21 The provisions of this Act, the Settlement Agreement,
22 as modified to conform to this Act, and the Management
23 Plan shall take effect immediately upon enactment of this
24 Act.

1 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS AND RE-**
2 **LATED AUTHORITIES.**

3 (a) **GENERAL.**—There are hereby authorized to be
4 appropriated such sums as may be necessary to carry out
5 this Act.

6 (b) **CONTRIBUTIONS.**—

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

12 (2) The Secretary shall complete a survey of
13 the Area within one year of the date of enactment
14 of this Act.

15 (c) **LAND EXCHANGE.**—Within 90 days after the date
16 of enactment of this Act, after consultation with the Pueb-
17 lo, and in compliance with all applicable laws, the Sec-
18 retary shall offer to exchange National Forest System
19 lands within Sandoval County for lands owned by the
20 Pueblo in fee within the boundaries of the Area. If the
21 land exchange is not completed within 180 days after the
22 date of enactment of this Act, the Secretary shall submit
23 a report explaining the reasons for the failure to complete
24 the land exchange and an expected completion date to the
25 Committee on Energy and Natural Resources of the

1 United States Senate and the Committee on Resources of
2 the United States House of Representatives.

3 (d) ~~LAND ACQUISITION.~~—The Secretary is author-
4 ized to acquire lands owned by the Pueblo within the Ever-
5 green Hills Subdivision in Sandoval County or any other
6 privately held lands within the Area. The boundaries of
7 the Cibola National Forest and the Area shall be adjusted
8 to encompass any lands acquired pursuant to this section.

9 **[SECTION 1. SHORT TITLE.**

10 **[***This Act may be cited as the “T’uf Shur Bien Preser-*
11 *vation Trust Area Act”.*

12 **[SEC. 2. FINDING AND STATEMENT OF PURPOSE.**

13 **[***(a) FINDING.—The Congress finds that in 1748, the*
14 *Pueblo of Sandia received a grant from a representative*
15 *of the King of Spain, which grant was recognized and con-*
16 *firmed by Congress in 1858 (11 Stat. 374). In 1994, the*
17 *Pueblo filed a lawsuit against the Secretary of the Interior*
18 *and the Secretary of Agriculture in the U.S. District Court*
19 *for the District of Columbia, Civil No. 1:94CV0264, assert-*
20 *ing that federal surveys of the grant boundaries erroneously*
21 *excluded certain lands within the Cibola National Forest,*
22 *including a portion of the Sandia Mountain Wilderness;*

23 **[***(b) PURPOSES.—The purposes of this Act are to—*

24 **[***(1) establish the T’uf Shur Bien Preservation*
25 *Trust Area in the Cibola National Forest;*

1 【(2) confirm the status of National Forest and
2 Wilderness lands in the Area while resolving issues
3 associated with the Pueblo’s lawsuit and the opinions
4 of the Solicitor of the Department of the Interior
5 dated December 9, 1988 (M–36963; 96 I.D. 331) and
6 January 19, 2001 (M–37002); and

7 【(3) provide the Pueblo, parties involved in the
8 litigation, and the public with a fair and just settle-
9 ment of the Pueblo’s claim.

10 **【SEC. 3. DEFINITIONS.**

11 【For purposes of this Act:

12 【(1) AREA.—The term “Area” means the T’uf
13 Shur Bien Preservation Trust Area as depicted on the
14 map, and excludes the subdivisions and other pri-
15 vately and publicly owned lands as set forth in this
16 Act.

17 【(2) CREST FACILITIES.—The term “crest facili-
18 ties” means all facilities and developments located on
19 the crest of Sandia Mountain, including the Sandia
20 Crest Electronic Site; electronic site access roads; the
21 Crest House; the upper terminal, restaurant, and re-
22 lated facilities of Sandia Peak Tram Company; the
23 Crest Observation Area; parking lots; restrooms; the
24 Crest Trail (Trail No. 130); hang glider launch sites;
25 and the Kiwanis cabin; as well as the lands upon

1 *which such facilities are located and the lands extend-*
2 *ing 100 feet to the west of each such facility, unless*
3 *a different distance is agreed to in writing between*
4 *the Forest Service and the Pueblo and documented in*
5 *the survey of the Area.*

6 **[(3) EXISTING USES AND ACTIVITIES.—***The term*
7 *“existing uses and activities” means uses and activi-*
8 *ties occurring in the Area on the date of enactment*
9 *of this Act, or which have been authorized in the Area*
10 *after November 1, 1995 but before the date of enact-*
11 *ment of this Act.*

12 **[(4) FOREST SERVICE.—***The term “Forest Serv-*
13 *ice” means the U.S. Forest Service.*

14 **[(5) LA LUZ TRACT.—***The term “La Luz tract”*
15 *means that tract comprised of approximately 31 acres*
16 *of land owned in fee by the Pueblo and depicted on*
17 *the map.*

18 **[(6) LOCAL PUBLIC BODIES.—***The term “local*
19 *public bodies” means political subdivisions of the*
20 *State of New Mexico as defined in New Mexico Code*
21 *§ 6–5–1.*

22 **[(7) MAP.—***The term “map” means the Forest*
23 *Service map entitled “T’uf Shur Bien Preservation*
24 *Trust Area,” dated April 2000.*

1 【(8) *MODIFIED USES OR ACTIVITIES.*—*The term*
2 “*modified uses or activities*” *means existing uses*
3 *which are being modified or re-configured, but which*
4 *are not being significantly expanded, including a*
5 *trail or trailhead being modified, such as to accom-*
6 *modate handicapped access, a parking area being*
7 *reconfigured though not expanded, or a special use*
8 *authorization for a group recreation activity being*
9 *authorized for a different use area or time period.*

10 【(9) *NEW USES OR ACTIVITIES.*—*The term “new*
11 *uses or activities” means uses or activities not occur-*
12 *ring in the Area on the date of enactment of this Act,*
13 *as well as existing uses or activities that are being*
14 *modified such that they significantly expand or alter*
15 *their previous scope, dimensions, or impacts on the*
16 *land, water, air and/or wildlife resources of the Area.*
17 *New uses and activities do not apply to new uses or*
18 *activities that are categorically excluded from docu-*
19 *mentation requirements pursuant to the National En-*
20 *vironmental Policy Act of 1969 (42 U.S.C. 4321 et*
21 *seq.), or to activities undertaken to comply with the*
22 *Endangered Species Act of 1973 (16 U.S.C. 1531 et*
23 *seq.).*

24 【(10) *PIEDRA LISA TRACT.*—*The term “Piedra*
25 *Lisa tract” means that tract comprised of approxi-*

1 *mately 160 acres of land held in private ownership*
2 *and depicted on the map.*

3 **[(11) PUEBLO.—***The term “Pueblo” means the*
4 *Pueblo of Sandia in its governmental capacity.*

5 **[(12) SECRETARY.—***The term “Secretary”*
6 *means the Secretary of Agriculture, except where oth-*
7 *erwise expressly indicated.*

8 **[(13) SETTLEMENT AGREEMENT.—***The term*
9 *“Settlement Agreement” means the Agreement of*
10 *Compromise and Settlement dated April 4, 2000, be-*
11 *tween the United States, the Pueblo, and the Sandia*
12 *Peak Tram Company.*

13 **[(14) SPECIAL USE PERMIT.—***The term “special*
14 *use permit” means the December 1, 1993, Special Use*
15 *Permit issued by the Forest Service to Sandia Peak*
16 *Tram Company and Sandia Peak Ski Company, en-*
17 *compassing approximately 46 acres of the corridor*
18 *presently dedicated to aerial tramway use, and ap-*
19 *proximately 945 acres of the ski area, as well as the*
20 *lands described generally in Exhibit A to the Decem-*
21 *ber 31, 1993, Special Use Permit, including the*
22 *maintenance road to the lower tram tower, water*
23 *storage and distribution facilities, seven helispots, and*
24 *the other lands described therein.*

1 【(15) *SUBDIVISIONS.*—*The term “subdivisions”*
 2 *means the subdivisions of Sandia Heights Addition,*
 3 *Sandia Heights North Units I, II, and 3, Tierra*
 4 *Monte, and Evergreen Hills, as well as any addi-*
 5 *tional plats and privately owned properties depicted*
 6 *on the map, exclusive of the property now owned or*
 7 *hereafter acquired by the Pueblo or the Forest Service*
 8 *in the subdivisions.*

9 【(16) *TRADITIONAL AND CULTURAL USES.*—*The*
 10 *terms “traditional and cultural uses” and “tradi-*
 11 *tional and cultural purposes” mean ceremonial ac-*
 12 *tivities, including the placing of ceremonial materials*
 13 *in the Area, and the use, hunting, trapping or gath-*
 14 *ering of plants, animals, wood, water, and other nat-*
 15 *ural resources, but only for non-commercial purposes.*

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

17 【(a) *ESTABLISHMENT.*—*The T’uf Shur Bien Preserva-*
 18 *tion Trust Area is established within the Cibola National*
 19 *Forest and the Sandia Mountain Wilderness as depicted on*
 20 *the map:*

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

24 【(2) *to preserve in perpetuity the Wilderness*
 25 *and 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 continue*
5 *to administer the Area as part of the National Forest Sys-*
6 *tem and incorporate the provisions of this Act affecting*
7 *management of the Area, including section 5(a)(3) and sec-*
8 *tion 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 Pueblo*
13 *under section 5(a)(4) of this Act shall not be re-*
14 *stricted except by the Wilderness Act and its regula-*
15 *tions 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 expressly*
21 *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 to*
2 *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 9890 acres of land within the Cibola National*
6 *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 the*
11 *Committee on Energy and Natural Resources of the*
12 *Senate. The map and legal description shall be on file*
13 *and available for public inspection in the Office of the*
14 *Chief of the Forest Service, Department of Agri-*
15 *culture, 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), and 9(e) shall be made;*
23 *and*

1 【(C) *to the extent the map and the language*
2 *of this Act conflict, the language of the Act con-*
3 *trols.*

4 【(e) *NO CONVEYANCE OF TITLE.—The United States*
5 *right, title 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, without*
8 *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 Mining Law of 1872*
18 *(30 U.S.C. § 22).*

19 【(g) *NO MODIFICATION OF BOUNDARIES.—Nothing*
20 *herein shall affect the boundaries of, or shall repeal or dis-*
21 *establish the Sandia Mountain Wilderness or the Cibola Na-*
22 *tional Forest. Establishment of the Area does not in any*
23 *way modify 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 incon-*
7 *sistent with the Wilderness Act and its regulations as*
8 *they exist on the date of enactment of this Act and*
9 *with applicable federal wildlife protection laws as*
10 *provided in section 6(a)(2).*

11 **[(2)** *Perpetual preservation of the Wilderness*
12 *and National Forest character of the Area under this*
13 *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 for*

1 *traditional and cultural uses by members of the Pueb-*
2 *lo and of other federally recognized Indian tribes.*

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

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

9 **[(c) COMPENSABLE INTEREST.—**

10 **[(1)** *If, by an Act of Congress enacted subsequent*
11 *to the effective date of this Act, Congress diminishes*
12 *the Wilderness and National Forest designation of the*
13 *Area by authorizing a use prohibited by section 4(f)*
14 *in all or any portion of the Area, or permanently de-*
15 *nies the Pueblo access for any traditional and cul-*
16 *tural uses in all or any portion of the Area, the*
17 *United States shall compensate the Pueblo as if the*
18 *Pueblo had held a fee title interest in the affected por-*
19 *tion of the Area and as though the United States had*
20 *acquired such interest by legislative exercise of its*
21 *power of eminent domain, and the restrictions of sec-*
22 *tions 4(f) and 6(a) shall be disregarded in deter-*
23 *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 *of interest therein, and any such conveyance shall not*
 11 *have validity in law or equity;*

12 【(2) *any exemption from applicable Federal*
 13 *wildlife 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 traditional*
 19 *and cultural use rights as authorized in section 5(a)(4) of*
 20 *this Act may be prosecuted for a Federal wildlife offense*
 21 *requiring proof of a violation of a State law or regulation.*

22 **【SEC. 7. MANAGEMENT OF THE AREA.**

23 【(a) *PROCESS.—*

24 【(1) *GENERAL.—*

1 【(A) *The Forest Service shall consult with*
2 *the Pueblo of Sandia not less than twice a year,*
3 *unless otherwise mutually agreed, concerning*
4 *protection, preservation, and management of the*
5 *Area, including new and modified uses and ac-*
6 *tivities in the Area and authorizations that are*
7 *anticipated during the next six months and ap-*
8 *proved 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 activ-*
12 *ity within 30 days of the consultation, the Forest*
13 *Service will not be authorized to proceed with the*
14 *activity or use. If the Pueblo consents to the new*
15 *use or activity in writing or fails to respond*
16 *within 30 days, the Forest Service may proceed*
17 *with the notice and comment process and the en-*
18 *vironmental 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, the*
25 *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.—**

8 **[(A) For proposed new and modified uses**
9 **and activities, the public shall be provided notice**
10 **of—**

11 **[(i) the purpose and need for the pro-**
12 **posed action or activity,**

13 **[(ii) the Pueblo's role in the decision-**
14 **making process, and**

15 **[(iii) the Pueblo's position on the pro-**
16 **posal.**

17 *Any member of the public may file an action in*
18 *the United States District Court for the District*
19 *of New Mexico to challenge Forest Service deter-*
20 *minations of what constitutes a new or a modi-*
21 *fied use or activity.*

22 **[(b) EMERGENCIES AND EMERGENCY CLOSURE OR-**
23 **DETERS.—The Forest Service shall retain its existing authori-**
24 **ties to manage emergency situations, to provide for public**
25 **safety, and to issue emergency closure orders in the Area**

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

7 **[(c) DISPUTES INVOLVING FOREST SERVICE MANAGE-**
 8 **MENT AND PUEBLO TRADITIONAL USES.—**

9 **[(1) GENERAL.—***In the event that Forest Service*
 10 *management of the Area and Pueblo traditional and*
 11 *cultural uses conflict, and the conflict does not per-*
 12 *tain to new or modified uses subject to the process set*
 13 *forth in subsection (a), the process for dispute resolu-*
 14 *tion set forth in this subsection shall take effect.*

15 **[(2) DISPUTE RESOLUTION PROCESS.—(A)**
 16 *When there is a dispute between the Pueblo and the*
 17 *Forest Service regarding Pueblo traditional and cul-*
 18 *tural use and Forest Service management of the Area,*
 19 *the party identifying the dispute shall notify the other*
 20 *party in writing addressed to the Governor of the*
 21 *Pueblo or the Regional Forester respectively, setting*
 22 *forth the nature of the dispute. The Regional Forester*
 23 *or designee and the Governor of the Pueblo or designee*
 24 *shall attempt to resolve the dispute for no less than*
 25 *30 days after notice has been provided before filing an*

1 *action in United States District Court for the District*
2 *of New Mexico.*

3 **[(B) DISPUTES REQUIRING IMMEDIATE RESOLU-**
4 *TION.—In the event of a conflict that requires imme-*
5 *diate resolution to avoid imminent, substantial and*
6 *irreparable harm, the party alleging such conflict*
7 *shall notify the other party and seek to resolve the*
8 *dispute within 3 days of the date of notification. If*
9 *the parties are unable to resolve the dispute within 3*
10 *days, either party may file an action for immediate*
11 *relief in federal court in New Mexico, and the proce-*
12 *dural exhaustion requirements set forth above shall*
13 *not apply.*

14 **[SEC. 8. JURISDICTION OVER THE AREA.**

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

18 **[(1) To the extent that the allocations of crimi-**
19 *nal jurisdiction over the Area under paragraphs (2),*
20 *(3), and (4) of this subsection are overlapping, they*
21 *should be construed to allow for the exercise of concur-*
22 *rent criminal jurisdiction.*

23 **[(2) The Pueblo shall have jurisdiction over**
24 *crimes committed by its members or by members of*
25 *another federally recognized Indian tribe who are*

1 *present in the Area with the Pueblo's permission pur-*
2 *suant to section 5(a)(4).*

3 **[(3)** *The United States shall have jurisdiction*
4 *over—*

5 **[(A)** *the offenses listed in section 1153 of*
6 *title 18, U.S. Code, including any offenses added*
7 *to the list in that statute by future amendments*
8 *thereto, when such offenses are committed by*
9 *members of the Pueblo and other federally recog-*
10 *nized Indian tribes;*

11 **[(B)** *crimes committed by any person in*
12 *violation of laws and regulations pertaining to*
13 *the protection and management of National For-*
14 *ests;*

15 **[(C)** *enforcement of federal criminal laws of*
16 *general applicability; and*

17 **[(D)** *any other offense committed by a*
18 *member of the Pueblo against a non-member of*
19 *the Pueblo. Any offense which is not defined and*
20 *punished by federal law in force within the ex-*
21 *clusive jurisdiction of the United States shall be*
22 *defined and punished in accordance with the*
23 *laws of the State of New Mexico.*

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

4 **[(b)** *CIVIL JURISDICTION.—*

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

11 **[(2)** *The Pueblo shall have exclusive civil adju-*
 12 *dicatory jurisdiction over—*

13 **[(A)** *disputes involving only members of the*
 14 *Pueblo;*

15 **[(B)** *civil actions brought by the Pueblo*
 16 *against members of the Pueblo; and*

17 **[(C)** *civil actions brought by the Pueblo*
 18 *against members of other federally recognized In-*
 19 *Indian tribes for violations of understandings be-*
 20 *tween the Pueblo and that member's tribe regard-*
 21 *ing use or access to the Area for traditional and*
 22 *cultural purposes.*

23 **[(3)** *The Pueblo shall have no regulatory juris-*
 24 *isdiction over the Area with the exception of:*

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

7 【(B) *the Pueblo shall have exclusive author-*
8 *ity to regulate hunting and trapping in the Area*
9 *by its members that is related to traditional and*
10 *cultural purposes. Such authority shall not vest*
11 *or continue until the Pueblo enacts and there-*
12 *after maintains and enforces regulations sub-*
13 *stantially similar to those of the State of New*
14 *Mexico concerning seasons, game management,*
15 *types of weapons, proximity of hunting and*
16 *trapping to trails and residences, and com-*
17 *parable safety restrictions. Prior to adopting*
18 *such regulations, the Pueblo shall provide the*
19 *Forest Service and the New Mexico Game and*
20 *Fish Department with notice and an oppor-*
21 *tunity to comment on the regulations. The Pueb-*
22 *lo shall consult and exchange information with*
23 *the New Mexico Game and Fish Department on*
24 *a periodic basis to assist the Department with*

1 *its ongoing responsibility to protect wildlife pop-*
2 *ulations.*

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

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

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

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

1 *the Interior. Such trust land shall be subject to all limita-*
2 *tions 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 Forest Service acquires*
6 *the tract, it shall be included in the Area. Unless the Piedra*
7 *Lisa tract is acquired by the Pueblo, the Pueblo shall have*
8 *no civil or criminal jurisdiction over the tract and property*
9 *interests therein, and the laws of the Pueblo shall not apply*
10 *to the tract. Except as provided in subsection (e), the juris-*
11 *isdiction of the State of New Mexico and local bodies over*
12 *the Piedra Lisa tract and property interests therein shall*
13 *continue in effect. If the Forest Service acquires the tract,*
14 *the jurisdictional provisions of section 8 of this Act shall*
15 *apply.*

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

1 **[(d) SPECIAL USE PERMIT AREA.**—*The lands de-*
2 *scribed in the special use permit are excluded from the Area.*
3 *The Pueblo shall have no civil or criminal jurisdiction for*
4 *any purpose, including adjudicatory, taxing, zoning, regu-*
5 *latory, or any other form of jurisdiction, over the lands de-*
6 *scribed in the special use permit, and the laws of the Pueblo*
7 *shall not apply to those lands. The pre-existing jurisdic-*
8 *tional status of these lands shall continue in effect. In the*
9 *event the special use permit, during its existing term or*
10 *any future terms or extensions, requires amendment to in-*
11 *clude other lands in the Area necessary to realign the exist-*
12 *ing or any future replacement tram line, associated struc-*
13 *tures, or facilities, the lands subject to that amendment*
14 *shall thereafter be excluded from the Area and shall have*
15 *the same status under this Act as the lands currently de-*
16 *scribed in the special use permit. Any lands dedicated to*
17 *aerial tramway and related uses and associated facilities*
18 *that are excluded from the special use permit through expi-*
19 *ration, termination or the amendment process shall there-*
20 *after be included in the Area but only after final agency*
21 *action no longer subject to any appeals.*

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

1 *States and administered by the Secretary of the Interior.*
2 *If the Pueblo acquires the Piedra Lisa tract, the tract shall*
3 *be transferred to the United States and held in trust for*
4 *the Pueblo by the United States and administered by the*
5 *Secretary of the Interior. Such trust land shall be subject*
6 *to all limitations on use pertaining to the Area contained*
7 *in this Act. The restriction contained in section 6(a)(4)*
8 *shall not apply outside of Forest Service System trails.*

9 **[(f) EVERGREEN HILLS ACCESS.—***The Secretary, con-*
10 *sistent with section 1323(a) of the Alaska National Interest*
11 *Lands Conservation Act (16 U.S.C. 3210), shall ensure that*
12 *Forest Service Road 333D, as depicted on the map, is main-*
13 *tained in an adequate condition consistent with the terms*
14 *of section 1323(a) of the Alaska National Interest Lands*
15 *Conservation Act (16 U.S.C. 3210).*

16 **[(g) PUEBLO FEE LANDS.—***Those properties not spe-*
17 *cifically addressed in subsection (a) or (e) of this section*
18 *that are owned in fee by the Pueblo within the subdivisions*
19 *are excluded from the Area and shall be subject to the juris-*
20 *dictional provisions of subsection (a) of this section.*

21 **[(h) RIGHTS-OF-WAY.—**

22 **[(1) ROAD RIGHTS-OF-WAY.—**

23 **[(A)** *In accordance with the Pueblo having*
24 *given its consent in the Settlement Agreement,*
25 *the Secretary of the Interior shall grant to the*

1 *County of Bernalillo, New Mexico, in perpetuity,*
 2 *the following irrevocable rights of way for roads*
 3 *identified on the map in order to provide for*
 4 *public access to the subdivisions, the special use*
 5 *permit land and facilities, the other leasehold*
 6 *and easement rights and interests of the Sandia*
 7 *Peak Tram Company and its affiliates, the*
 8 *Sandia Heights South Subdivision, and the*
 9 *Area:*

10 **[(i)** *a right-of-way for Tramway*
 11 *Road;*

12 **[(ii)** *a right-of-way for Juniper Hill*
 13 *Road North;*

14 **[(iii)** *a right-of-way for Juniper Hill*
 15 *Road South;*

16 **[(iv)** *a right-of-way for Sandia*
 17 *Heights Road; and*

18 **[(v)** *a right-of-way for Juan Tabo*
 19 *Canyon Road (Forest Road No. 333).*

20 **[(B)** *The road rights-of-way shall be subject*
 21 *to the following conditions:*

22 **[(i)** *Such rights-of-way may not be ex-*
 23 *panded or otherwise modified without the*
 24 *Pueblo's written consent, but road mainte-*

1 *nance to the rights of way shall not be sub-*
2 *ject to Pueblo consent.*

3 **[(ii)** *The rights-of-way shall not au-*
4 *thorize uses for any purpose other than*
5 *roads without the Pueblo's written consent.*

6 **[(iii)** *Existing rights-of-way or lease-*
7 *hold interests held by the Sandia Peak*
8 *Tram Company and its affiliates, shall be*
9 *preserved and protected.*

10 **[(2)** *UTILITY RIGHTS-OF-WAY.—In accordance*
11 *with the Pueblo having given its consent in the Settle-*
12 *ment Agreement, the Secretary of the Interior shall*
13 *grant irrevocable utility rights-of-way in perpetuity*
14 *across Pueblo lands to appropriate utility or other*
15 *service providers serving Sandia Heights Addition,*
16 *Sandia Heights North Units I, II, and 3, the special*
17 *use permit lands, and Tierra Monte, including rights-*
18 *of-way for natural gas, power, water, telecommuni-*
19 *cations, and cable television services. Such rights-of-*
20 *way shall be within existing utility corridors as de-*
21 *scribed on the map or, for certain water lines, as de-*
22 *scribed in the existing grant of easement to the*
23 *Sandia Peak Utility Company; provided that use of*
24 *water line easements outside the utility corridors de-*
25 *scribed on the map shall not be used for utility pur-*

1 *poses other than water lines and associated facilities.*
 2 *Except where above-ground facilities already exist, all*
 3 *new utility facilities shall be installed underground*
 4 *unless the Pueblo agrees otherwise. To the extent that*
 5 *enlargement of existing utility corridors is required*
 6 *for any technologically-advanced telecommunication,*
 7 *television, or utility services, the Pueblo shall not un-*
 8 *reasonably withhold agreement to a reasonable en-*
 9 *largement of the easements described above.*

10 **[(i) FOREST SERVICE RIGHTS-OF-WAY.—***In accord-*
 11 *ance with the Pueblo having given its consent in the Settle-*
 12 *ment Agreement, the Secretary of the Interior shall grant*
 13 *to the Forest Service the following irrevocable rights-of-way*
 14 *in perpetuity for Forest Service trails crossing land of the*
 15 *Pueblo in order to provide for public access to the Area and*
 16 *through Pueblo lands—*

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

20 **[(2)** *a right-of-way for the extension of the Foot-*
 21 *hills Trail (Trail No. 365A), as identified on the*
 22 *map; and*

23 **[(3)** *a right-of-way for that portion of the*
 24 *Piedra Lisa North-South Trail (Trail No. 135) cross-*

1 *ing the Piedra Lisa tract, if the Pueblo ever acquires*
 2 *the Piedra Lisa tract.*

3 **[SEC. 10. EXTINGUISHMENT OF CLAIMS.**

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

12 **[(b) SUBDIVISIONS AND PIEDRA LISA.—***Any Pueblo*
 13 *claims to right, title and interest of any kind, including*
 14 *aboriginal claims, in and to the subdivisions and the*
 15 *Piedra Lisa tract and property interests therein, as well*
 16 *as related boundary, survey, trespass, and monetary dam-*
 17 *age claims, are hereby 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*

1 **[(2)** *the lands on which the crest facilities are lo-*
2 *cated.*

3 **[(d)** *PUEBLO AGREEMENT.—As provided in the Settle-*
4 *ment Agreement, the Pueblo has agreed to the relinquish-*
5 *ment and extinguishment of those claims, rights, titles and*
6 *interests extinguished pursuant to subsection (a), (b) and*
7 *(c) of this section.*

8 **[(e)** *CONSIDERATION.—The recognition of the Pueblo’s*
9 *rights and interests in this Act constitutes adequate consid-*
10 *eration for the Pueblo’s agreement to the extinguishment of*
11 *the Pueblo’s claims in this section and the right-of-way*
12 *grants contained in section 9, and it is the intent of Con-*
13 *gress that those rights and interests may only be diminished*
14 *by a future Act of Congress specifically authorizing dimin-*
15 *ishment of such rights, with express reference to this Act.*

16 **[SEC. 11. CONSTRUCTION.**

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

21 **[(b)** *EXISTING RIGHTS.—To the extent there exists*
22 *within the Area at the time of enactment of this Act any*
23 *valid private property rights associated with the Piedra*
24 *Lisa tract or other private lands that are not otherwise ad-*
25 *dressed in this Act, such rights are not modified or other-*

1 *wise affected by this Act, nor is the exercise of any such*
2 *right subject to the Pueblo's right to the withhold consent*
3 *to new uses in the Area as set forth in section 5(a)(3)(i).*

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

10 **[(d) FISH AND WILDLIFE.—***Except as provided in sec-*
11 *tion 8(b)(3)(B), nothing in this Act shall be construed as*
12 *affecting 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 only*
22 *after consultation with, and the approval of, the head of*
23 *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 706*
7 *of title 5, United States Code.*

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 judi-*
12 *cial 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 Court*
16 *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 ap-*
23 *propriated such sums as may be necessary to carry out this*
24 *Act, including such sums as may be necessary for the Forest*
25 *Service to acquire ownership of lands within the external*
26 *boundaries of the Area as authorized in subsection (d).*

1 **[(b) CONTRIBUTIONS.—**

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

7 **[(2) *The Secretary shall complete a survey of the***
8 ***Area within one year of the date of enactment of this***
9 ***Act.***

10 **[(c) LAND EXCHANGE.—***In the event the Secretary*
11 *purchases or otherwise acquires ownership of the Piedra*
12 *Lisa tract, the Forest Service is authorized to transfer own-*
13 *ership of the Piedra Lisa tract to the Pueblo in exchange*
14 *for lands of equal value owned by the Pueblo in fee within*
15 *the subdivided portion of the Evergreen Hills subdivision*
16 *or other land acceptable to the Secretary. Notwithstanding*
17 *section 206(b) of the Federal Land Policy and Management*
18 *Act (43 U.S.C. 1716(b)), the Secretary may either make or*
19 *accept a cash equalization payment in excess of 25 percent*
20 *of the total value of the lands or interests transferred out*
21 *of Federal ownership. Any such exchange or conveyance*
22 *shall be executed in compliance with all applicable laws ex-*
23 *cept that the Secretary shall retain, without further appro-*
24 *priation, any cash equalization payment received from the*

1 *Pueblo for the acquisition of land to be added to the Cibola*
 2 *National Forest.*

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

10 **[(e) REIMBURSEMENT OF CERTAIN COSTS.—**

11 **[(1) *The Pueblo, the County of Bernalillo, New***
 12 *Mexico, and any person who owns or has owned prop-*
 13 *erty inside of the exterior boundaries of the area as*
 14 *designated on the map, and who has incurred actual*
 15 *and direct costs as a result of participating in the*
 16 *case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624*
 17 *HHG (D.D.C.), or other proceedings directly related*
 18 *to resolving the issues litigated in that case, may*
 19 *apply for reimbursement in accordance with this sec-*
 20 *tion. Costs directly related to such participation*
 21 *which shall qualify for reimbursement shall be—*

22 **[(A) *dues or payments to a homeowner as-***
 23 *sociation for the purpose of legal representation;*
 24 *and*

25 **[(B) *legal fees and related expenses.***

1 【(2) *The reimbursement provided in this sub-*
2 *section shall be in lieu of that which might otherwise*
3 *be available pursuant to the Equal Access to Justice*
4 *Act (24 U.S.C. 2412).*】

5 【(3) *The Secretary of the Treasury is authorized*
6 *and directed to make reimbursement payments as*
7 *provided in this section out of any money not other-*
8 *wise appropriated.*】

9 【(4) *Applications for reimbursement shall be*
10 *filed within 180 days of the date of enactment of this*
11 *Act with the Department of the Treasury, Financial*
12 *Management Service, Washington, D.C.*】

13 【(5) *In no event shall any one party be com-*
14 *pensated in excess of \$750,000 and the total amount*
15 *reimbursed pursuant to this section shall not exceed*
16 *\$3,000,000.*】

17 **SECTION 1. SHORT TITLE.**

18 ***This Act may be cited as the “T’uf Shur***
19 ***Bien Preservation Trust Area Act”.***

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

21 ***(a) FINDING.—The Congress finds that in***
22 ***1748, the Pueblo of Sandia received a grant***
23 ***from a representative of the King of Spain,***
24 ***which grant was recognized and confirmed by***
25 ***Congress in 1858 (11 Stat. 374). In 1994, the***

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

9 (b) *PURPOSES.—The purposes of this Act*
10 *are to—*

11 (1) *establish the T’uf Shur Bien Pres-*
12 *ervation Trust Area in the Cibola Na-*
13 *tional Forest;*

14 (2) *confirm the status of National For-*
15 *est and Wilderness lands in the Area*
16 *while resolving issues associated with the*
17 *Pueblo’s lawsuit and the opinions of the*
18 *Solicitor of the Department of the Interior*
19 *dated December 9, 1988 (M–36963; 96 I.D.*
20 *331) and January 19, 2001 (M–37002); and*

21 (3) *provide the Pueblo, parties in-*
22 *volved in the litigation, and the public*
23 *with a fair and just settlement of the*
24 *Pueblo’s claim.*

1 **SEC. 3. DEFINITIONS.**

2 ***For purposes of this Act:***

3 ***(a) AREA.—The term “Area” means the T’uf***
4 ***Shur Bien Preservation Trust Area as depicted***
5 ***on the map, and excludes the subdivisions,***
6 ***Pueblo-owned lands, the crest facilities, and***
7 ***the special use permit lands as set forth in this***
8 ***Act.***

9 ***(b) CREST FACILITIES.—The term “crest fa-***
10 ***cilities” means all facilities and developments***
11 ***located on the crest of Sandia Mountain, in-***
12 ***cluding the Sandia Crest Electronic Site; elec-***
13 ***tronic site access roads; the Crest House; the***
14 ***upper terminal, restaurant, and related facili-***
15 ***ties of Sandia Peak Tram Company; the Crest***
16 ***Observation Area; parking lots; restrooms; the***
17 ***Crest Trail (Trail No. 130); hang glider launch***
18 ***sites; and the Kiwanis cabin; as well as the***
19 ***lands upon which such facilities are located***
20 ***and the lands extending 100 feet along terrain***
21 ***to the west of each such facility, unless a dif-***
22 ***ferent distance is agreed to in writing between***
23 ***the Forest Service and the Pueblo and docu-***
24 ***mented in the survey of the Area.***

25 ***(c) EXISTING USES AND ACTIVITIES.—The***
26 ***term “existing uses and activities” means uses***

1 *and activities occurring in the Area on the*
2 *date of enactment of this Act, or which have*
3 *been authorized in the Area after November 1,*
4 *1995 but before the date of enactment of this*
5 *Act.*

6 (d) *FOREST SERVICE.—The term “Forest*
7 *Service” means the U.S. Forest Service.*

8 (e) *LA LUZ TRACT.—The term “La Luz*
9 *tract” means that tract comprised of approxi-*
10 *mately 31 acres of land owned in fee by the*
11 *Pueblo and depicted on the map.*

12 (f) *LOCAL PUBLIC BODIES.—The term “local*
13 *public bodies” means political subdivisions of*
14 *the State of New Mexico as defined in New*
15 *Mexico Code 6-5-1.*

16 (g) *MAP.—The term “map” means the For-*
17 *est Service map entitled “T’uf Shur Bien Pres-*
18 *ervation Trust Area,” dated April 2000.*

19 (h) *MODIFIED USES OR ACTIVITIES.—The*
20 *term “modified uses or activities” means exist-*
21 *ing uses which are being modified or re-config-*
22 *ured, but which are not being significantly ex-*
23 *panded, including a trail or trailhead being*
24 *modified, such as to accommodate handi-*
25 *capped access, a parking area being reconfig-*

1 *ured though not expanded, or a special use au-*
2 *thorization for a group recreation activity*
3 *being authorized for a different use area or*
4 *time period.*

5 (i) *NEW USES OR ACTIVITIES.—The term*
6 *“new uses or activities” means uses or activi-*
7 *ties not occurring in the Area on the date of*
8 *enactment of this Act, as well as existing uses*
9 *or activities that are being modified such that*
10 *they significantly expand or alter their pre-*
11 *vious scope, dimensions, or impacts on the*
12 *land, water, air and/or wildlife resources of*
13 *the Area. New uses and activities do not apply*
14 *to new uses or activities that are categorically*
15 *excluded from documentation requirements*
16 *pursuant to the National Environmental Pol-*
17 *icy Act of 1969 (42 U.S.C. 4321 et seq.), or to ac-*
18 *tivities undertaken to comply with the Endan-*
19 *gered Species Act of 1973 (16 U.S.C. 1531 et*
20 *seq.).*

21 (j) *PIEDRA LISA TRACT.—The term “Piedra*
22 *Lisa tract” means that tract comprised of ap-*
23 *proximately 160 acres of land held in private*
24 *ownership and depicted on the map.*

1 ***(k) PUEBLO.—The term “Pueblo” means the***
2 ***Pueblo of Sandia in its governmental capacity.***

3 ***(l) SECRETARY.—The term “Secretary”***
4 ***means the Secretary of Agriculture, except***
5 ***where otherwise expressly indicated.***

6 ***(m) SETTLEMENT AGREEMENT.—The term***
7 ***“Settlement Agreement” means the Agreement***
8 ***of Compromise and Settlement dated April 4,***
9 ***2000, between the United States, the Pueblo,***
10 ***and the Sandia Peak Tram Company.***

11 ***(n) SPECIAL USE PERMIT.—The term “spe-***
12 ***cial use permit” means the December 1, 1993,***
13 ***Special Use Permit issued by the Forest Service***
14 ***to Sandia Peak Tram Company and Sandia***
15 ***Peak Ski Company, encompassing approxi-***
16 ***mately 46 acres of the corridor presently dedi-***
17 ***cated to aerial tramway use, and approxi-***
18 ***mately 945 acres of the ski area, as well as the***
19 ***lands described generally in Exhibit A to the***
20 ***December 31, 1993, Special Use Permit, includ-***
21 ***ing the maintenance road to the lower tram***
22 ***tower, water storage and distribution facili-***
23 ***ties, seven helispots, and the other lands de-***
24 ***scribed therein.***

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

8 **(p) TRADITIONAL AND CULTURAL USES.—The**
 9 **terms “traditional and cultural uses” and**
 10 **“traditional and cultural purposes” mean cer-**
 11 **emonial activities, including the placing of**
 12 **ceremonial materials in the Area, and the use,**
 13 **hunting, trapping or gathering of plants, ani-**
 14 **mals, wood, water, and other natural re-**
 15 **sources, but only for non-commercial purposes.**

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

17 **(a) ESTABLISHMENT.—The T’uf Shur Bien**
 18 **Preservation Trust Area is established within**
 19 **the Cibola National Forest and the Sandia**
 20 **Mountain Wilderness as depicted on the map—**

21 **(1) to recognize and protect in per-**
 22 **petuity the Pueblo’s rights and interests**
 23 **in and to the Area, as specified in section**
 24 **5(a) of this Act;**

1 ***(2) to preserve in perpetuity the Wil-***
2 ***derness and National Forest character of***
3 ***the Area; and***

4 ***(3) to recognize and protect in per-***
5 ***petuity the public's longstanding use and***
6 ***enjoyment of the Area.***

7 ***(b) ADMINISTRATION AND APPLICABLE LAW.—***

8 ***The Secretary, acting through the Forest Serv-***
9 ***ice, shall continue to administer the Area as***
10 ***part of the National Forest System and incor-***
11 ***porate the provisions of this Act affecting man-***
12 ***agement of the Area, including section 5(a)(3)***
13 ***and section 7.***

14 ***(c) EXCEPTIONS.—***

15 ***(1) Traditional and cultural uses by***
16 ***Pueblo members and members of other***
17 ***federally recognized Indian tribes author-***
18 ***ized to use the Area by the Pueblo under***
19 ***section 5(a)(4) of this Act shall not be re-***
20 ***stricted except by the Wilderness Act and***
21 ***its regulations as they exist on the date of***
22 ***enactment of this Act and by applicable***
23 ***Federal wildlife protection laws as pro-***
24 ***vided in section 6(a)(2) of this Act.***

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

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

14 ***(d) AREA DEFINED.—***

15 ***(1) The Area shall be comprised of ap-***
16 ***proximately 9,890 acres of land within the***
17 ***Cibola National Forest as depicted on the***
18 ***map.***

19 ***(2) As soon as practicable after enact-***
20 ***ment of this Act, the Secretary shall file***
21 ***the map and a legal description of the***
22 ***Area with the Committee on Resources of***
23 ***the House of Representatives and with the***
24 ***Committee on Energy and Natural Re-***
25 ***sources of the Senate. The map and legal***

1 *description shall be on file and available*
2 *for public inspection in the Office of the*
3 *Chief of the Forest Service, Department of*
4 *Agriculture, Washington, District of Co-*
5 *lumbia.*

6 (3) *Such map and legal description*
7 *shall have the same force and effect as if*
8 *included in this Act, except that—*

9 (A) *clerical and typographical er-*
10 *rors shall be corrected;*

11 (B) *changes that may be necessary*
12 *pursuant to section 9(b), 9(d), 9(e),*
13 *14(c) and 14(d) shall be made; and*

14 (C) *to the extent the map and the*
15 *language of this Act conflict, the lan-*
16 *guage of the Act controls.*

17 (e) *NO CONVEYANCE OF TITLE.—The United*
18 *States' right, title and interest in or to the*
19 *Area or any part thereof shall not be conveyed*
20 *to or exchanged with any person, trust, or gov-*
21 *ernmental entity, including the Pueblo, with-*
22 *out specific authorization of Congress.*

23 (f) *PROHIBITED USES.—Notwithstanding*
24 *any other provision of law, no use prohibited*
25 *by the Wilderness Act as of the date of enact-*

1 *ment of this Act may occur in the Wilderness*
 2 *portion of the Area; nor may any of the fol-*
 3 *lowing uses occur in any portion of the Area:*
 4 *gaming or gambling of any kind, mineral pro-*
 5 *duction, timber production, and new uses or*
 6 *activities to which the Pueblo objects pursuant*
 7 *to section 5(a)(3) of this Act. The Area is closed*
 8 *to the location of mining claims under section*
 9 *2320 of the Revised Statutes (30 U.S.C. 23).*

10 *(g) NO MODIFICATION OF BOUNDARIES.—Cre-*
 11 *ation of the T’uf Shur Bien Preservation Trust*
 12 *Area shall not affect the boundaries of, nor re-*
 13 *peal or disestablish the Sandia Mountain Wil-*
 14 *derness or the Cibola National Forest. Estab-*
 15 *lishment of the Area does not in any way mod-*
 16 *ify the existing boundary of the Pueblo grant.*

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

19 *(a) GENERAL.—The Pueblo shall have the*
 20 *following rights and interests in the Area—*

21 *(1) free and unrestricted access to the*
 22 *Area for traditional and cultural uses to*
 23 *the extent not inconsistent with the Wil-*
 24 *derness Act and its regulations as they*
 25 *exist on the date of enactment of this Act*

1 *and with applicable Federal wildlife pro-*
2 *tection laws as provided in section 6(a)(2);*

3 *(2) perpetual preservation of the Wil-*
4 *derness and National Forest character of*
5 *the Area under this Act;*

6 *(3) rights in the management of the*
7 *Area as set forth in section 7, which in-*
8 *clude—*

9 *(A) the right to consent or with-*
10 *hold consent to new uses;*

11 *(B) the right to consultation re-*
12 *garding modified uses;*

13 *(C) the right to consultation re-*
14 *garding the management and preser-*
15 *vation of the Area; and*

16 *(D) the right to dispute resolution*
17 *procedures;*

18 *(4) exclusive authority, in accordance*
19 *with its customs and laws, to administer*
20 *access to the Area for traditional and cul-*
21 *tural uses by members of the Pueblo and*
22 *of other federally recognized Indian*
23 *tribes; and*

1 ***(5) such other rights and interests as***
2 ***are enumerated and recognized in sec-***
3 ***tions 4, 5(c), 7, 8, and 9.***

4 ***(b) LIMITATION.—Except as provided in sub-***
5 ***section (a)(4), access to and use of the Area for***
6 ***all other purposes shall continue to be admin-***
7 ***istered by the Secretary through the Forest***
8 ***Service.***

9 ***(c) COMPENSABLE INTEREST.—***

10 ***(1) If, by an Act of Congress enacted***
11 ***subsequent to the effective date of this Act,***
12 ***Congress diminishes the Wilderness and***
13 ***National Forest designation of the Area***
14 ***by authorizing a use prohibited by section***
15 ***4(f) in all or any portion of the Area, or***
16 ***denies the Pueblo access for any tradi-***
17 ***tional and cultural uses in all or any por-***
18 ***tion of the Area, the United States shall***
19 ***compensate the Pueblo as if the Pueblo***
20 ***had held a fee title interest in the affected***
21 ***portion of the Area and as though the***
22 ***United States had acquired such interest***
23 ***by legislative exercise of its power of emi-***
24 ***nent domain, and the restrictions of sec-***
25 ***tions 4(f) and 6(a) shall be disregarded in***

1 *determining just compensation owed to*
 2 *the Pueblo.*

3 (2) *Any compensation made to the*
 4 *Pueblo pursuant to subsection (c)(1) does*
 5 *not in any way affect the extinguishment*
 6 *of claims set forth in section 10.*

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

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

12 (1) *any right to sell, grant, lease, con-*
 13 *vey, encumber or exchange lands in the*
 14 *Area, or any right or interest therein, and*
 15 *any such conveyance shall not have valid-*
 16 *ity in law or equity;*

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

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

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

23 (b) *EXCEPTION.—No person who exercises*
 24 *traditional and cultural use rights as author-*
 25 *ized in section 5(a)(4) of this Act may be pros-*

1 *ecuted for a Federal wildlife offense requiring*
2 *proof of a violation of a state law or regula-*
3 *tion.*

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

5 *(a) PROCESS.—*

6 *(1) GENERAL.—*

7 *(A) The Forest Service shall con-*
8 *sult with the Pueblo of Sandia not less*
9 *than twice a year, unless otherwise*
10 *mutually agreed, concerning protec-*
11 *tion, preservation, and management*
12 *of the Area, including proposed new*
13 *and modified uses and activities in*
14 *the Area and authorizations that are*
15 *anticipated during the next six*
16 *months and approved in the pre-*
17 *ceding six months.*

18 *(2) NEW USES AND ACTIVITIES.—*

19 *(A) If after consultation the Pueb-*
20 *lo of Sandia denies its consent for a*
21 *new use or activity within 30 days of*
22 *the consultation, the Forest Service*
23 *will not be authorized to proceed with*
24 *the activity or use. If the Pueblo con-*
25 *sents to the new use or activity in*

1 *writing or fails to respond within 30*
2 *days, the Forest Service may proceed*
3 *with the notice and comment process*
4 *and the environmental analysis.*

5 *(B) Before the Forest Service signs*
6 *a Record of Decision (ROD) or Deci-*
7 *sion Notice (DN) for a proposed use or*
8 *activity, the Forest Service will again*
9 *request Pueblo consent within 30 days*
10 *of the Pueblo's receipt of the proposed*
11 *ROD or DN. If the Pueblo refuses to*
12 *consent, the activity or use will not be*
13 *authorized. If the Pueblo fails to re-*
14 *spond to the consent request within 30*
15 *days after the proposed ROD or DN is*
16 *provided to the Pueblo, the Pueblo*
17 *will be deemed to have consented to*
18 *the proposed ROD or DN and the For-*
19 *est Service may proceed to issue the*
20 *final ROD or DN.*

21 **(3) PUBLIC INVOLVEMENT.—**

22 *(A) For proposed new and modi-*
23 *fied uses and activities, the public*
24 *shall be provided notice of—*

- 1 *(i) the purpose and need for*
2 *the proposed action or activity,*
3 *(ii) the Pueblo's role in the de-*
4 *cision-making process, and*
5 *(iii) the Pueblo's position on*
6 *the proposal.*

7 *Any person may file an action in the United*
8 *States District Court for the District of New*
9 *Mexico to challenge Forest Service determina-*
10 *tions of what constitutes a new or a modified*
11 *use or activity.*

12 ***(b) EMERGENCIES AND EMERGENCY CLOSURE***
13 ***ORDERS.—The Forest Service shall retain its***
14 ***existing authorities to manage emergency situ-***
15 ***ations, to provide for public safety, and to***
16 ***issue emergency closure orders in the Area***
17 ***subject to applicable law. The Forest Service***
18 ***shall notify the Pueblo of Sandia regarding***
19 ***emergencies, public safety issues, and emer-***
20 ***gency closure orders as soon as possible. Such***
21 ***actions are not subject to the Pueblo's right to***
22 ***withhold consent to new uses in the Area as set***
23 ***forth in section 5(a)(3)(i).***

24 ***(c) DISPUTES INVOLVING FOREST SERVICE***
25 ***MANAGEMENT AND PUEBLO TRADITIONAL USES.—***

1 ***(1) GENERAL.—In the event that Forest***
2 ***Service management of the Area and***
3 ***Pueblo traditional and cultural uses con-***
4 ***flict, and the conflict does not pertain to***
5 ***new or modified uses subject to the proc-***
6 ***ess set forth in subsection (a), the process***
7 ***for dispute resolution set forth in this sub-***
8 ***section shall take effect.***

9 ***(2) DISPUTE RESOLUTION PROCESS.—(A)***
10 ***When there is a dispute between the Pueb-***
11 ***lo and the Forest Service regarding Pueb-***
12 ***lo traditional and cultural use and Forest***
13 ***Service management of the Area, the***
14 ***party identifying the dispute shall notify***
15 ***the other party in writing addressed to***
16 ***the Governor of the Pueblo or the Re-***
17 ***gional Forester respectively, setting forth***
18 ***the nature of the dispute. The Regional***
19 ***Forester or designee and the Governor of***
20 ***the Pueblo or designee shall attempt to re-***
21 ***solve the dispute for no less than 30 days***
22 ***after notice has been provided before fil-***
23 ***ing an action in United States District***
24 ***Court for the District of New Mexico.***

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

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

16 **(a) CRIMINAL JURISDICTION.—***Notwith-*
17 *standing any other provision of law, jurisdic-*
18 *tion over crimes committed in the Area shall*
19 *be allocated as follows:*

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

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

7 ***(3) The United States shall have juris-***
8 ***isdiction over—***

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

16 ***(B) crimes committed by any per-***
17 ***son in violation of laws and regula-***
18 ***tions pertaining to the protection and***
19 ***management of National Forests;***

20 ***(C) enforcement of Federal crimi-***
21 ***nal laws of general applicability; and***

22 ***(D) any other offense committed by***
23 ***a member of the Pueblo against a non-***
24 ***member of the Pueblo. Any offense***
25 ***which is not defined and punished by***

1 ***Federal law in force within the exclu-***
2 ***sive jurisdiction of the United States***
3 ***shall be defined and punished in ac-***
4 ***cordance with the laws of the State of***
5 ***New Mexico.***

6 ***(4) The State of New Mexico shall***
7 ***have jurisdiction over any crime under its***
8 ***laws committed by a person not a member***
9 ***of the Pueblo.***

10 ***(b) CIVIL JURISDICTION.—***

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

18 ***(2) The Pueblo shall have exclusive***
19 ***civil adjudicatory jurisdiction over—***

20 ***(A) disputes involving only mem-***
21 ***bers of the Pueblo;***

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

1 (C) *civil actions brought by the*
2 *Pueblo against members of other fed-*
3 *erally recognized Indian tribes for vio-*
4 *lations of understandings between the*
5 *Pueblo and that member's tribe re-*
6 *garding use or access to the Area for*
7 *traditional and cultural purposes.*

8 (3) *The Pueblo shall have no regu-*
9 *latory jurisdiction over the Area with the*
10 *exception of—*

11 (A) *exclusive authority to regulate*
12 *traditional and cultural uses by the*
13 *Pueblo's own members and to admin-*
14 *ister access to the Area by other feder-*
15 *ally recognized Indian tribes for tra-*
16 *ditional and cultural uses, to the ex-*
17 *tent such regulation is consistent with*
18 *this Act; and*

19 (B) *The Pueblo shall have exclu-*
20 *sive authority to regulate hunting and*
21 *trapping in the Area by its members*
22 *that is related to traditional and cul-*
23 *tural purposes: Provided that any*
24 *hunting and trapping conducted by*
25 *Pueblo members as a traditional and*

1 *cultural use within the Area, exclud-*
2 *ing that part of the Area contained*
3 *within Sections 13, 14, 23, 24, and the*
4 *northeast quarter of Section 25 of*
5 *T12N, R4E, and Section 19 of T12N,*
6 *R5E, N.M.P.M., Sandoval County, New*
7 *Mexico, shall be regulated by the*
8 *Pueblo in a manner consistent with*
9 *the regulations of the State of New*
10 *Mexico concerning types of weapons*
11 *and proximity of hunting and trap-*
12 *ping to trails and residences.*

13 *(4) The Pueblo shall have no authority*
14 *to impose taxes within the Area.*

15 *(5) The State of New Mexico and local*
16 *public bodies shall have no authority*
17 *within the Area to tax the activities or the*
18 *property of the Pueblo, its members, or*
19 *members of other federally recognized In-*
20 *Indian tribes authorized to use the Area*
21 *under section 5(a)(4) of this Act.*

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

23 **(a) SUBDIVISIONS.**—*The subdivisions are*
24 *excluded from the Area. The Pueblo shall have*
25 *no civil or criminal jurisdiction for any pur-*

1 *pose, including adjudicatory, taxing, zoning,*
2 *regulatory or any other form of jurisdiction,*
3 *over the subdivisions and property interests*
4 *therein, and the laws of the Pueblo shall not*
5 *apply to the subdivisions. The jurisdiction of*
6 *the State of New Mexico and local public bod-*
7 *ies over the subdivisions and property interests*
8 *therein shall continue in effect, except that*
9 *upon application of the Pueblo a tract com-*
10 *prised of approximately 35 contiguous, non-*
11 *subdivided acres in the northern section of Ev-*
12 *ergreen Hills owned in fee by the Pueblo at the*
13 *time of enactment of this Act, shall be trans-*
14 *ferred to the United States and held in trust*
15 *for the Pueblo by the United States and admin-*
16 *istered by the Secretary of the Interior. Such*
17 *trust land shall be subject to all limitations on*
18 *use pertaining to the Area contained in this*
19 *Act.*

20 **(b) PIEDRA LISA.**—*The Piedra Lisa tract is*
21 *excluded from the Area notwithstanding any*
22 *subsequent acquisition of the tract by the*
23 *Pueblo. If the Secretary or the Pueblo acquires*
24 *the Piedra Lisa tract, the tract shall be trans-*
25 *ferred to the United States and is hereby de-*

1 *clared to be held in trust for the Pueblo by the*
2 *United States and administered by the Sec-*
3 *retary of the Interior subject to all limitations*
4 *on use pertaining to the Area contained in this*
5 *Act. The restriction contained in section*
6 *6(a)(4) shall not apply outside of Forest Serv-*
7 *ice System trails. Until acquired by the Sec-*
8 *retary or Pueblo, the jurisdiction of the State*
9 *of New Mexico and local public bodies over the*
10 *Piedra Lisa tract and property interests there-*
11 *in shall continue in effect.*

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

23 (d) *SPECIAL USE PERMIT AREA.—The lands*
24 *described in the special use permit are ex-*
25 *cluded from the Area. The Pueblo shall have*

1 *no civil or criminal jurisdiction for any pur-*
2 *pose, including adjudicatory, taxing, zoning,*
3 *regulatory, or any other form of jurisdiction,*
4 *over the lands described in the special use per-*
5 *mit, and the laws of the Pueblo shall not apply*
6 *to those lands. The pre-existing jurisdictional*
7 *status of these lands shall continue in effect.*
8 *In the event the special use permit, during its*
9 *existing term or any future terms or exten-*
10 *sions, requires amendment to include other*
11 *lands in the Area necessary to realign the ex-*
12 *isting or any future replacement tram line, as-*
13 *sociated structures, or facilities, the lands sub-*
14 *ject to that amendment shall thereafter be ex-*
15 *cluded from the Area and shall have the same*
16 *status under this Act as the lands currently de-*
17 *scribed in the special use permit. Any lands*
18 *dedicated to aerial tramway and related uses*
19 *and associated facilities that are excluded*
20 *from the special use permit through expira-*
21 *tion, termination or the amendment process*
22 *shall thereafter be included in the Area but*
23 *only after final agency action no longer sub-*
24 *ject to any appeals.*

1 **(e) LA LUZ TRACT.**—*The La Luz tract now*
2 *owned in fee by the Pueblo is excluded from the*
3 *Area and upon application by the Pueblo shall*
4 *be transferred to the United States and held*
5 *in trust for the Pueblo by the United States*
6 *and administered by the Secretary of the Inte-*
7 *rior subject to all limitations on use per-*
8 *taining to the Area contained in this Act. The*
9 *restriction contained in section 6(a)(4) shall*
10 *not apply outside of Forest Service System*
11 *trails.*

12 **(f) EVERGREEN HILLS ACCESS.**—*The Sec-*
13 *retary, consistent with section 1323(a) of the*
14 *Alaska National Interest Lands Conservation*
15 *Act (16 U.S.C. 3210), shall ensure that Forest*
16 *Service Road 333D, as depicted on the map, is*
17 *maintained in an adequate condition con-*
18 *sistent with the terms of section 1323(a) of the*
19 *Alaska National Interest Lands Conservation*
20 *Act (16 U.S.C. 3210).*

21 **(g) PUEBLO FEE LANDS.**—*Those properties*
22 *not specifically addressed in subsections (a) or*
23 *(e) of this section that are owned in fee by the*
24 *Pueblo within the subdivisions are excluded*
25 *from the Area and shall be subject to the juris-*

1 *dictional provisions of subsection (a) of this*
2 *section.*

3 *(h) RIGHTS-OF-WAY.—*

4 *(1) ROAD RIGHTS-OF-WAY.—(A) In ac-*
5 *cordance with the Pueblo having given its*
6 *consent in the Settlement Agreement, the*
7 *Secretary of the Interior shall grant to the*
8 *County of Bernalillo, New Mexico, in per-*
9 *petuity, the following irrevocable rights of*
10 *way for roads identified on the map in*
11 *order to provide for public access to the*
12 *subdivisions, the special use permit land*
13 *and facilities, the other leasehold and*
14 *easement rights and interests of the*
15 *Sandia Peak Tram Company and its af-*
16 *filiates, the Sandia Heights South Sub-*
17 *division, and the Area:*

18 *(i) A right-of-way for Tramway*
19 *Road.*

20 *(ii) A right-of-way for Juniper Hill*
21 *Road North.*

22 *(iii) A right-of-way for Juniper*
23 *Hill Road South.*

24 *(iv) A right-of-way for Sandia*
25 *Heights Road.*

1 (v) *A right-of-way for Juan Tabo*
2 *Canyon Road (Forest Road No. 333).*

3 (B) *The road rights-of-way shall be*
4 *subject to the following conditions:*

5 (i) *Such rights-of-way may not be*
6 *expanded or otherwise modified with-*
7 *out the Pueblo's written consent, but*
8 *road maintenance to the rights of way*
9 *shall not be subject to Pueblo consent.*

10 (ii) *The rights-of-way shall not au-*
11 *thorize uses for any purpose other*
12 *than roads without the Pueblo's writ-*
13 *ten consent.*

14 (iii) *Except as provided in the Set-*
15 *tlement Agreement, existing rights-of-*
16 *way or leasehold interests and obliga-*
17 *tions held by the Sandia Peak Tram*
18 *Company and its affiliates, shall be*
19 *preserved, protected, and unaffected*
20 *by this Act.*

21 (2) *UTILITY RIGHTS-OF-WAY.—In accord-*
22 *ance with the Pueblo having given its con-*
23 *sent in the Settlement Agreement, the Sec-*
24 *retary of the Interior shall grant irrev-*
25 *ocable utility rights-of-way in perpetuity*

1 *across Pueblo lands to appropriate utility*
2 *or other service providers serving Sandia*
3 *Heights Addition, Sandia Heights North*
4 *Units I, II, and 3, the special use permit*
5 *lands, Tierra Monte, and Valley View*
6 *Acres, including rights-of-way for natural*
7 *gas, power, water, telecommunications,*
8 *and cable television services. Such rights-*
9 *of-way shall be within existing utility cor-*
10 *ridors as depicted on the map or, for cer-*
11 *tain water lines, as described in the exist-*
12 *ing grant of easement to the Sandia Peak*
13 *Utility Company; provided that use of*
14 *water line easements outside the utility*
15 *corridors depicted on the map shall not be*
16 *used for utility purposes other than water*
17 *lines and associated facilities. Except*
18 *where above-ground facilities already*
19 *exist, all new utility facilities shall be in-*
20 *stalled underground unless the Pueblo*
21 *agrees otherwise. To the extent that en-*
22 *largement of existing utility corridors is*
23 *required for any technologically-advanced*
24 *telecommunication, television, or utility*
25 *services, the Pueblo shall not unreason-*

1 *ably withhold agreement to a reasonable*
2 *enlargement of the easements described*
3 *above.*

4 *(i) FOREST SERVICE RIGHTS OF WAY.—In ac-*
5 *cordance with the Pueblo having given its con-*
6 *sent in the Settlement Agreement, the Sec-*
7 *retary of the Interior shall grant to the Forest*
8 *Service the following irrevocable rights-of-way*
9 *in perpetuity for Forest Service trails crossing*
10 *land of the Pueblo in order to provide for pub-*
11 *lic access to the Area and through Pueblo*
12 *lands—*

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

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

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

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

2 **(a) GENERAL.—***Except for the rights and in-*
3 *terests in and to the Area specifically recog-*
4 *nized in sections 4, 5, 7, 8, and 9, all Pueblo*
5 *claims to right, title and interest of any kind,*
6 *including aboriginal claims, in and to lands*
7 *within the Area, any part thereof, and prop-*
8 *erty interests therein, as well as related bound-*
9 *ary, survey, trespass, and monetary damage*
10 *claims, are hereby permanently extinguished.*
11 *The United States' title to the Area is hereby*
12 *confirmed.*

13 **(b) SUBDIVISIONS.—***Any Pueblo claims to*
14 *right, title and interest of any kind, including*
15 *aboriginal claims, in and to the subdivisions*
16 *and property interests therein (except for land*
17 *owned in fee by the Pueblo as of the date of en-*
18 *actment of this Act), as well as related bound-*
19 *ary, survey, trespass, and monetary damage*
20 *claims, are hereby permanently extinguished.*

21 **(c) SPECIAL USE AND CREST FACILITIES**
22 **AREAS.—***Any Pueblo right, title and interest of*
23 *any kind, including aboriginal claims, and re-*
24 *lated boundary, survey, trespass, and mone-*
25 *tary damage claims, are hereby permanently*
26 *extinguished in and to —*

1 ***(1) the lands described in the special***
2 ***use permit; and***

3 ***(2) the lands on which the crest facili-***
4 ***ties are located.***

5 ***(d) PUEBLO AGREEMENT.—As provided in***
6 ***the Settlement Agreement, the Pueblo has***
7 ***agreed to the relinquishment and extinguish-***
8 ***ment of those claims, rights, titles and inter-***
9 ***ests extinguished pursuant to subsection (a),***
10 ***(b) and (c) of this section.***

11 ***(e) CONSIDERATION.—The recognition of the***
12 ***Pueblo’s rights and interests in this Act con-***
13 ***stitutes adequate consideration for the Pueb-***
14 ***lo’s agreement to the extinguishment of the***
15 ***Pueblo’s claims in this section and the right-***
16 ***of-way grants contained in section 9, and it is***
17 ***the intent of Congress that those rights and in-***
18 ***terests may only be diminished by a future Act***
19 ***of Congress specifically authorizing diminish-***
20 ***ment of such rights, with express reference to***
21 ***this Act.***

22 ***SEC. 11. CONSTRUCTION.***

23 ***(a) STRICT CONSTRUCTION.—This Act recog-***
24 ***nizes only enumerated rights and interests,***

1 *and no additional rights, interests, obliga-*
2 *tions, or duties shall be created by implication.*

3 **(b) EXISTING RIGHTS.**—*To the extent there*
4 *exists within the Area at the time of enactment*
5 *of this Act any valid private property rights as-*
6 *sociated with the Piedra Lisa tract or other*
7 *private lands that are not otherwise addressed*
8 *in this Act, such rights are not modified or oth-*
9 *erwise affected by this Act, nor is the exercise*
10 *of any such right subject to the Pueblo’s right*
11 *to the withhold consent to new uses in the Area*
12 *as set forth in section 5(a)(3)(i).*

13 **(c) NOT PRECEDENT.**—*The provisions of this*
14 *Act creating certain rights and interests in the*
15 *National Forest System are uniquely suited to*
16 *resolve the Pueblo’s claim and the geographic*
17 *and societal situation involved, and shall not*
18 *be construed as precedent for any other situa-*
19 *tion involving management of the National*
20 *Forest System.*

21 **(d) FISH AND WILDLIFE.**—*Except as pro-*
22 *vided in section 8(b)(3), nothing in this Act*
23 *shall be construed as affecting the responsibil-*
24 *ities of the State of New Mexico with respect*
25 *to fish and wildlife, including the regulation*

1 *of hunting, fishing, or trapping within the*
2 *Area.*

3 ***(e) FEDERAL LAND POLICY AND MANAGEMENT***
4 ***ACT.—Section 316 (43 U.S.C. 1746) of the Fed-***
5 ***eral Land Policy and Management Act of 1976***
6 ***(43 U.S.C. 1701 et seq.) is amended by adding***
7 ***the following sentence at the end thereof: “Any***
8 ***corrections authorized by this section which***
9 ***affect the boundaries of, or jurisdiction over,***
10 ***lands administered by another Federal agency***
11 ***shall be made only after consultation with,***
12 ***and the approval of, the head of such other***
13 ***agency.”***

14 ***SEC. 12. JUDICIAL REVIEW.***

15 ***(a) ENFORCEMENT.—Suit to enforce the pro-***
16 ***visions of this Act may be brought to the extent***
17 ***permitted under chapter 7 of title 5, United***
18 ***States Code. Judicial review shall be based***
19 ***upon the administrative record and subject to***
20 ***the applicable standard of review set forth in***
21 ***section 706 of title 5.***

22 ***(b) WAIVER.—Suit may be brought against***
23 ***the Pueblo for declaratory judgment or injunc-***
24 ***tive relief under this Act, but no money dam-***
25 ***ages, including costs or attorney’s fees, may be***

1 *imposed on the Pueblo as a result of such judi-*
2 *cial action.*

3 (c) *VENUE.—Venue for any suit provided*
4 *for in this section, as well as any suit to contest*
5 *the constitutionality of this Act, shall lie only*
6 *in the United States District Court for the Dis-*
7 *trict of New Mexico.*

8 *SEC. 13. EFFECTIVE DATE.*

9 *The provisions of this Act shall take effect*
10 *immediately upon enactment of this Act.*

11 *SEC. 14. AUTHORIZATION OF APPROPRIATIONS AND RE-*
12 *LATED AUTHORITIES.*

13 (a) *GENERAL.—There are hereby author-*
14 *ized to be appropriated such sums as may be*
15 *necessary to carry out this Act, including such*
16 *sums as may be necessary for the Forest Serv-*
17 *ice to acquire ownership of, or other interest*
18 *in, lands within the external boundaries of the*
19 *Area as authorized in subsection (d).*

20 (b) *CONTRIBUTIONS.—*

21 (1) *The Secretary is authorized to ac-*
22 *cept contributions from the Pueblo, or*
23 *from other persons or governmental enti-*
24 *ties, to perform and complete a survey of*

1 *the Area, or otherwise for the benefit of*
2 *the Area in accordance with this Act.*

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

6 (c) *LAND EXCHANGE.—Within 180 days after*
7 *the date of enactment of this Act, after con-*
8 *sultation with the Pueblo, the Secretary is di-*
9 *rected in accordance with applicable laws to*
10 *prepare and offer a land exchange of National*
11 *Forest lands outside the Area and contiguous*
12 *to the northern boundary of the Pueblo’s Res-*
13 *ervation within sections 10, 11, and 14 of T12N,*
14 *R4E, N.M.P.M., Sandoval County, New Mexico*
15 *excluding Wilderness land, for lands owned by*
16 *the Pueblo in the Evergreen Hills subdivision*
17 *in Sandoval County contiguous to National*
18 *Forest land, and the La Luz tract in Bernalillo*
19 *County. Notwithstanding section 206(b) of the*
20 *Federal Land Policy and Management Act (43*
21 *U.S.C. 1716(b)), the Secretary may either make*
22 *or accept a cash equalization payment in ex-*
23 *cess of 25 percent of the total value of the lands*
24 *or interests transferred out of Federal owner-*
25 *ship. Any funds received by the Secretary as a*

1 *result of the exchange shall be deposited in the*
2 *fund established under the Act of December 4,*
3 *1967, known as the Sisk Act (16 U.S.C. 484a),*
4 *and shall be available to purchase non-Fed-*
5 *eral lands within or adjacent to the National*
6 *Forests in the State of New Mexico. All lands*
7 *exchanged or conveyed to the Pueblo are here-*
8 *by declared to be held in trust for the Pueblo*
9 *by the United States and added to the Pueblo's*
10 *Reservation subject to all existing and out-*
11 *standing rights and shall remain in their nat-*
12 *ural state and shall not be subject to commer-*
13 *cial development of any kind. Lands ex-*
14 *changed or conveyed to the Forest Service*
15 *shall be subject to all limitations on use per-*
16 *taining to the Area under this Act. If the land*
17 *exchange offer is not made within 180 days*
18 *after the date of enactment of this Act, the Sec-*
19 *retary shall submit to the Committee on En-*
20 *ergy and Natural Resources of the United*
21 *States Senate and the Committee on Resources*
22 *of the United States House of Representatives,*
23 *a report explaining the reasons for the failure*
24 *to make the offer including an assessment of*
25 *the need for any additional legislation that*

1 *may be necessary for the exchange. If addi-*
2 *tional legislation is not necessary, the Sec-*
3 *retary, consistent with this section, should pro-*
4 *ceed with the exchange pursuant to existing*
5 *law.*

6 *(d) LAND ACQUISITION.—(1) The Secretary*
7 *is authorized to acquire lands owned by the*
8 *Pueblo within the Evergreen Hills Subdivision*
9 *in Sandoval County or any other privately*
10 *held lands inside of the exterior boundaries of*
11 *the Area. The boundaries of the Cibola Na-*
12 *tional Forest and the Area shall be adjusted*
13 *to encompass any lands acquired pursuant to*
14 *this section.*

15 *(2) In the event the Pueblo acquires the*
16 *Piedra Lisa tract, the Secretary shall com-*
17 *pensate the Pueblo for the fair market value*
18 *of—*

19 *(A) the right-of-way established pursu-*
20 *ant to section 9(i)(3); and*

21 *(B) the conservation easement estab-*
22 *lished by the limitations on use of the*
23 *Piedra Lisa tract pursuant to section 9(b).*

24 *(e) REIMBURSEMENT OF CERTAIN COSTS.—*

1 ***(1) The Pueblo, the County of***
2 ***Bernalillo, New Mexico, and any person***
3 ***who owns or has owned property inside of***
4 ***the exterior boundaries of the Area as des-***
5 ***ignated on the map, and who has in-***
6 ***curring actual and direct costs as a result***
7 ***of participating in the case of Pueblo of***
8 ***Sandia v. Babbitt, Civ. No. 94-2624 HHG***
9 ***(D.D.C.), or other proceedings directly re-***
10 ***lated to resolving the issues litigated in***
11 ***that case, may apply for reimbursement in***
12 ***accordance with this section. Costs di-***
13 ***rectly related to such participation which***
14 ***shall qualify for reimbursement shall be—***

15 ***(A) dues or payments to a home-***
16 ***owner association for the purpose of***
17 ***legal representation; and***

18 ***(B) legal fees and related ex-***
19 ***penses.***

20 ***(2) The reimbursement provided in***
21 ***this subsection shall be in lieu of that***
22 ***which might otherwise be available pur-***
23 ***suant to the Equal Access to Justice Act***
24 ***(24 U.S.C. 2412).***

1 ***(3) The Secretary of the Treasury is***
2 ***authorized and directed to make reim-***
3 ***bursement payments as provided in this***
4 ***section out of any money not otherwise ap-***
5 ***propriated.***

6 ***(4) Applications for reimbursement***
7 ***shall be filed within 180 days of the date***
8 ***of enactment of this Act with the Depart-***
9 ***ment of the Treasury, Financial Manage-***
10 ***ment Service, Washington, D.C.***

11 ***(5) In no event shall any one party be***
12 ***compensated in excess of \$750,000 and the***
13 ***total amount reimbursed pursuant to this***
14 ***section shall not exceed \$3,000,000.***

Calendar No. 738

107TH CONGRESS
2^D SESSION

S. 2018

[Report No. 107-285]
[Report No. 107-321]

A BILL

To establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

OCTOBER 17, 2002

Reported with an amendment in the nature of a substitute