

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

# S. 2556

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## AN ACT

To authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1       **TITLE I—FREMONT-MADISON**  
2                               **CONVEYANCE**

3   **SEC. 101. SHORT TITLE.**

4       This title may be cited as the “Fremont-Madison  
5   Conveyance Act”.

6   **SEC. 102. DEFINITIONS.**

7       In this title:

8           (1) **DISTRICT.**—The term “District” means the  
9       Fremont-Madison Irrigation District, an irrigation  
10      district organized under the law of the State of  
11      Idaho.

12          (2) **SECRETARY.**—The term “Secretary” means  
13      the Secretary of the Interior.

14   **SEC. 103. CONVEYANCE OF FACILITIES.**

15      (a) **CONVEYANCE REQUIREMENT.**—The Secretary of  
16      the Interior shall convey to the Fremont-Madison Irriga-  
17      tion District, Idaho, pursuant to the terms of the memo-  
18      randum of agreement (MOA) between the District and the  
19      Secretary (Contract No. 1425–0901–09MA–0910–  
20      093310), all right, title, and interest of the United States  
21      in and to the canals, laterals, drains, and other compo-  
22      nents of the water distribution and drainage system that  
23      is operated or maintained by the District for delivery of  
24      water to and drainage of water from lands within the

1 boundaries of the District as they exist upon the date of  
2 enactment of this Act, consistent with section 108.

3 (b) REPORT.—If the Secretary has not completed any  
4 conveyance required under this title by September 13,  
5 2003, the Secretary shall, by no later than that date, sub-  
6 mit a report to the Congress explaining the reasons that  
7 conveyance has not been completed and stating the date  
8 by which the conveyance will be completed.

9 **SEC. 104. COSTS.**

10 (a) IN GENERAL.—The Secretary shall require, as a  
11 condition of the conveyance under section 103, that the  
12 District pay the administrative costs of the conveyance  
13 and related activities, including the costs of any review  
14 required under the National Environmental Policy Act of  
15 1969 (42 U.S.C. 4321 et seq.), as described in Contract  
16 No. 1425–0901–09MA–0910–093310.

17 (b) VALUE OF FACILITIES TO BE TRANSFERRED.—  
18 In addition to subsection (a) the Secretary shall also re-  
19 quire, as condition of the conveyance under section 103,  
20 that the District pay to the United States the lesser of  
21 the net present value of the remaining obligations owed  
22 by the District to the United States with respect to the  
23 facilities conveyed, or \$280,000. Amounts received by the  
24 United States under this subsection shall be deposited into  
25 the Reclamation Fund.

1 **SEC. 105. TETON EXCHANGE WELLS.**

2 (a) CONTRACTS AND PERMIT.—In conveying the  
3 Teton Exchange Wells pursuant to section 103, the Sec-  
4 retary shall also convey to the District—

5 (1) Idaho Department of Water Resources per-  
6 mit number 22–097022, including drilled wells  
7 under the permit, as described in Contract No.  
8 1425–0901–09MA–0910–093310; and

9 (2) all equipment appurtenant to such wells.

10 (b) EXTENSION OF WATER SERVICE CONTRACT.—

11 The water service contract between the Secretary and the  
12 District (Contract No. 7–0907–0910–09W0179, dated  
13 September 16, 1977) is hereby extended and shall con-  
14 tinue in full force and effect until all conditions described  
15 in this title are fulfilled.

16 **SEC. 106. ENVIRONMENTAL REVIEW.**

17 Prior to conveyance the Secretary shall complete all  
18 environmental reviews and analyses as set forth in the  
19 Memorandum of Agreement referenced in section 103(a).

20 **SEC. 107. LIABILITY.**

21 Effective on the date of the conveyance the United  
22 States shall not be liable for damages of any kind arising  
23 out of any act, omission, or occurrence relating to the con-  
24 veyed facilities, except for damages caused by acts of neg-  
25 ligence committed by the United States or by its employ-  
26 ees, agents, or contractors prior to the date of conveyance.

1 Nothing in this section may increase the liability of the  
2 United States beyond that currently provided in chapter  
3 171 of title 28, United States Code.

4 **SEC. 108. WATER SUPPLY TO DISTRICT LANDS.**

5 The acreage within the District eligible to receive  
6 water from the Minidoka Project and the Teton Basin  
7 Projects is increased to reflect the number of acres within  
8 the District as of the date of enactment of this title, in-  
9 cluding lands annexed into the District prior to enactment  
10 of this title as contemplated by the Teton Basin Project.  
11 The increase in acreage does not alter deliveries author-  
12 ized under the District's existing water storage contracts  
13 and as allowed by State water law.

14 **SEC. 109. DROUGHT MANAGEMENT PLANNING.**

15 Within 60 days of enactment of this title, in collabo-  
16 ration with stakeholders in the Henry's Fork watershed,  
17 the Secretary shall initiate a drought management plan-  
18 ning process to address all water uses, including irrigation  
19 and the wild trout fishery, in the Henry's Fork watershed.  
20 Within 18 months of enactment of this title, the Secretary  
21 shall submit a report to Congress, which shall include a  
22 final drought management plan.

23 **SEC. 110. EFFECT.**

24 (a) IN GENERAL.—Except as provided in this title,  
25 nothing in this title affects—

1 (1) the rights of any person; or

2 (2) any right in existence on the date of enact-  
3 ment of this Act of the Shoshone-Bannock Tribes of  
4 the Fort Hall Reservation to water based on a trea-  
5 ty, compact, executive order, agreement, the decision  
6 in *Winters v. United States* (207 U.S. 564 (1908))  
7 (commonly known as the “Winters Doctrine”), or  
8 law.

9 (b) CONVEYANCES.—Any conveyance under this title  
10 shall not affect or abrogate any provision of any contract  
11 executed by the United States or State law regarding any  
12 irrigation district’s right to use water developed in the fa-  
13 cilities conveyed.

## 14 **TITLE II—DENVER WATER** 15 **REUSE PROJECT**

### 16 **SEC. 201. DENVER WATER REUSE PROJECT.**

17 (a) AUTHORIZATION.—The Secretary of the Interior,  
18 in cooperation with the appropriate State and local au-  
19 thorities, may participate in the design, planning, and con-  
20 struction of the Denver Water Reuse Project (hereinafter  
21 referred to as the “Project”) to reclaim and reuse water  
22 in the service area of the Denver Water Department of  
23 the city and county of Denver, Colorado.

24 (b) COST SHARE.—The Federal share of the cost of  
25 the Project shall not exceed 25 percent of the total cost.

1 (c) LIMITATION.—Funds provided by the Secretary  
 2 shall not be used for the operation or maintenance of the  
 3 Project.

4 (d) FUNDING.—Funds appropriated pursuant to sec-  
 5 tion 1631 of the Reclamation Wastewater and Ground-  
 6 water Study and Facilities Act (43 U.S.C. 390h–13) may  
 7 be used for the Project.

8 **SEC. 202. RECLAMATION WASTEWATER AND GROUND-**  
 9 **WATER STUDY AND FACILITIES ACT.**

10 Design, planning, and construction of the Project au-  
 11 thorized by this title shall be in accordance with, and sub-  
 12 ject to the limitations contained in, the Reclamation  
 13 Wastewater and Groundwater Study and Facilities Act  
 14 (106 Stat. 4663–4669; 43 U.S.C. 390h et seq.), as amend-  
 15 ed.

16 **TITLE III—WALLOWA LAKE DAM**  
 17 **REHABILITATION**

18 **SEC. 301. SHORT TITLE.**

19 This title may be cited as the “Wallowa Lake Dam  
 20 Rehabilitation and Water Management Act of 2002”.

21 **SEC. 302. DEFINITIONS.**

22 In this title:

23 (1) ASSOCIATED DITCH COMPANIES, INCOR-  
 24 PORATED.—The term “Associated Ditch Companies,  
 25 Incorporated” means the non-profit corporation by

1 that name (as established under the laws of the  
2 State of Oregon) that operates Wallowa Lake Dam.

3 (2) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Interior, acting through the  
5 Commissioner of Reclamation.

6 (3) WALLOWA LAKE DAM REHABILITATION  
7 PROGRAM.—The term “Wallowa Lake Dam Reha-  
8 bilitation Program” means the program for the re-  
9 habilitation of the Wallowa Lake Dam in Oregon, as  
10 contained in the engineering document entitled,  
11 “Phase I Dam Assessment and Preliminary Engi-  
12 neering Design”, dated October 2001, and on file  
13 with the Bureau of Reclamation.

14 (4) WALLOWA VALLEY WATER MANAGEMENT  
15 PLAN.—The term “Wallowa Valley Water Manage-  
16 ment Plan” means the program developed for the  
17 Wallowa River watershed, as contained in the docu-  
18 ment entitled “Wallowa Lake Dam Rehabilitation  
19 and Water Management Plan Vision Statement”,  
20 dated February 2001, and on file with the Bureau  
21 of Reclamation.

22 **SEC. 303. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

23 (a) AUTHORIZATION.—The Secretary—



1           (1) in cooperation with the Associated Ditch  
2 Companies, Incorporated, may participate in the  
3 Wallowa Lake Dam Rehabilitation Program; and

4           (2) in cooperation with tribal, State and local  
5 governmental entities, may participate in planning,  
6 design and construction of facilities needed to imple-  
7 ment the Wallowa Valley Water Management Plan.

8 (b) COST SHARING.—

9           (1) IN GENERAL.—The Federal share of the  
10 costs of activities authorized under this title shall  
11 not exceed 80 percent.

12           (2) EXCLUSIONS FROM FEDERAL SHARE.—  
13 There shall not be credited against the Federal  
14 share of such costs—

15           (A) any expenditure by the Bonneville  
16 Power Administration in the Wallowa River wa-  
17 tershed; and

18           (B) expenditures made by individual farm-  
19 ers in any Federal farm or conservation pro-  
20 gram.

21 (c) COMPLIANCE WITH STATE LAW.—The Secretary,  
22 in carrying out this title, shall comply with otherwise ap-  
23 plicable State water law.

1 (d) PROHIBITION ON HOLDING TITLE.—The Federal  
2 Government shall not hold title to any facility rehabilitated  
3 or constructed under this title.

4 (e) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be respon-  
5 sible for the operation and maintenance of any facility con-  
6 structed or rehabilitated under this title.

8 (f) OWNERSHIP AND OPERATION OF FISH PASSAGE  
9 FACILITY.—Any facility constructed using Federal funds  
10 authorized by this title located at Wallowa Lake Dam for  
11 trapping and transportation of migratory adult salmon  
12 shall be owned and operated by the Nez Perce Tribe.

13 **SEC. 304. RELATIONSHIP TO OTHER LAW.**

14 Activities funded under this title shall not be consid-  
15 ered a supplemental or additional benefit under the Act  
16 of June 17, 1902 (32 Stat. 388), and all Acts amendatory  
17 thereof or supplementary thereto.

18 **SEC. 305. APPROPRIATIONS.**

19 There is authorized to be appropriated to the Sec-  
20 retary \$32,000,000 for the Federal share of the costs of  
21 activities authorized under this title.

1 **TITLE IV—ALBUQUERQUE BIO-**  
2 **LOGICAL PARK TITLE CLARI-**  
3 **FICATION**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Albuquerque Biologi-  
6 cal Park Title Clarification Act”.

7 **SEC 402. FINDINGS AND PURPOSE.**

8 (a) FINDINGS.—The Congress finds that:

9 (1) In 1997, the City of Albuquerque, New  
10 Mexico paid \$3,875,000 to the Middle Rio Grande  
11 Conservancy District to acquire two parcels of land  
12 known as Tingley Beach and San Gabriel Park.

13 (2) The City intends to develop and improve  
14 Tingley Beach and San Gabriel Park as part of its  
15 Albuquerque Biological Park Project.

16 (3) In 2000, the United States claimed title to  
17 Tingley Beach and San Gabriel Park by asserting  
18 that these properties were transferred to the United  
19 States in the 1950’s as part of the establishment of  
20 the Middle Rio Grande Project.

21 (4) The City’s ability to continue developing the  
22 Albuquerque Biological Park Project has been hin-  
23 dered by the United States claim of title to these  
24 properties.

1           (5) The United States claim of ownership over  
 2           the Middle Rio Grande Project properties is disputed  
 3           by the City and MRGCD in Rio Grande Silvery Min-  
 4           now v. John W. Keys, III, No. CV 99–1320 JP/  
 5           RLP–ACE (D. N.M. filed Nov. 15, 1999).

6           (6) Tingley Beach and San Gabriel Park are  
 7           surplus to the needs of the Bureau of Reclamation  
 8           and the United States in administering the Middle  
 9           Rio Grande Project.

10          (b) PURPOSE.—The purpose of this title is to direct  
 11          the Secretary of the Interior to issue a quitclaim deed con-  
 12          veying any right, title, and interest the United States may  
 13          have in and to Tingley Beach or San Gabriel Park to the  
 14          City, thereby removing the cloud on the City’s title to  
 15          these lands.

16          **SEC. 403. DEFINITIONS.**

17          In this title:

18          (1) CITY.—The term “City” means the City of Albu-  
 19          querque, New Mexico.

20          (2) MIDDLE RIO GRANDE CONSERVANCY DIS-  
 21          TRICT.—The terms “Middle Rio Grande Conservancy  
 22          District” and “MRGCD” mean a political subdivision of  
 23          the State of New Mexico, created in 1925 to provide and  
 24          maintain flood protection and drainage, and maintenance  
 25          of ditches, canals, and distribution systems for irrigation

1 and water delivery and operations in the Middle Rio  
2 Grande Valley.

3 (3) MIDDLE RIO GRANDE PROJECT.—The term  
4 “Middle Rio Grande Project” means the works associated  
5 with water deliveries and operations in the Rio Grande  
6 basin as authorized by the Flood Control Act of 1948  
7 (Public Law 80–858; 62 Stat. 1175) and the Flood Con-  
8 trol Act of 1950 (Public Law 81–516; 64 Stat. 170).

9 (4) SAN GABRIEL PARK.—The term “San Gabriel  
10 Park” means the tract of land containing 40.2236 acres,  
11 more or less, situated within Section 12 and Section 13,  
12 T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo  
13 County, New Mexico, and described by New Mexico State  
14 Plane Grid Bearings (Central Zone) and ground dis-  
15 tances in a Special Warranty Deed conveying the prop-  
16 erty from MRGCD to the City, dated November 25,  
17 1997.

18 (5) TINGLEY BEACH.—The term “Tingley  
19 Beach” means the tract of land containing 25.2005  
20 acres, more or less, situated within Section 13 and  
21 Section 24, T10N, R2E, N.M.P.M., City of Albu-  
22 querque, Bernalillo County, New Mexico, and de-  
23 scribed by New Mexico State Plane Grid Bearings  
24 (Central Zone) and ground distances in a Special

1 Warranty Deed conveying the property from  
2 MRGCD to the City, dated November 25, 1997.

3 **SEC. 404. CLARIFICATION OF PROPERTY INTEREST.**

4 (a) **REQUIRED ACTION.**—The Secretary of the Inte-  
5 rior shall issue a quitclaim deed conveying any right, title,  
6 and interest the United States may have in and to Tingley  
7 Beach and San Gabriel Park to the City.

8 (b) **TIMING.**—The Secretary shall carry out the ac-  
9 tion in subsection (a) as soon as practicable after the date  
10 of enactment of this title and in accordance with all appli-  
11 cable law.

12 (c) **NO ADDITIONAL PAYMENT.**—The City shall not  
13 be required to pay any additional costs to the United  
14 States for the value of San Gabriel Park and Tingley  
15 Beach.

16 **SEC. 405. OTHER RIGHTS, TITLE, AND INTERESTS UNAF-**  
17 **FECTED.**

18 (a) **IN GENERAL.**—Except as expressly provided in  
19 section 404, nothing in this title shall be construed to af-  
20 fect any right, title, or interest in and to any land associ-  
21 ated with the Middle Rio Grande Project.

22 (b) **ONGOING LITIGATION.**—Nothing contained in  
23 this title shall be construed or utilized to affect or other-  
24 wise interfere with any position set forth by any party in  
25 the lawsuit pending before the United States District

1 Court for the District of New Mexico, No. CV 99–1320  
 2 JP/RLP–ACE, entitled Rio Grande Silvery Minnow v.  
 3 John W. Keys, III, concerning the right, title, or interest  
 4 in and to any property associated with the Middle Rio  
 5 Grande Project.

6 **TITLE V—HIGH PLAINS AQUIFER**  
 7 **HYDROGEOLOGIC MAPPING**

8 **SEC. 501. SHORT TITLE.**

9 This title may be cited as the “High Plains Aquifer  
 10 Hydrogeologic Characterization, Mapping, Modeling and  
 11 Monitoring Act”.

12 **SEC. 502. DEFINITIONS.**

13 For the purposes of this title:

14 (1) ASSOCIATION.—The term “Association”  
 15 means the Association of American State Geologists.

16 (2) COUNCIL.—The term “Council” means the  
 17 Western States Water Council.

18 (3) DIRECTOR.—The term “Director” means  
 19 the Director of the United States Geological Survey.

20 (4) FEDERAL COMPONENT.—The term “Fed-  
 21 eral component” means the Federal component of  
 22 the High Plains Aquifer Comprehensive  
 23 Hydrogeologic Characterization, Mapping, Modeling  
 24 and Monitoring Program described in section 503(e).

1           (5) HIGH PLAINS AQUIFER.—The term “High  
2           Plains Aquifer” is the groundwater reserve depicted  
3           as Figure 1 in the United States Geological Survey  
4           Professional Paper 1400–B, titled “Geohydrology of  
5           the High Plains Aquifer in Parts of Colorado, Kan-  
6           sas, Nebraska, New Mexico, Oklahoma, South Da-  
7           kota, Texas, and Wyoming.”.

8           (6) HIGH PLAINS AQUIFER STATES.—The term  
9           “High Plains Aquifer States” means the States of  
10          Colorado, Kansas, Nebraska, New Mexico, Okla-  
11          homa, South Dakota, Texas and Wyoming.

12          (7) SECRETARY.—The term “Secretary” means  
13          the Secretary of the Interior.

14          (8) STATE COMPONENT.—The term “State  
15          component” means the State component of the High  
16          Plains Aquifer Comprehensive Hydrogeologic Char-  
17          acterization, Mapping, Modeling and Monitoring  
18          Program described in section 503(d).

19 **SEC. 503. ESTABLISHMENT.**

20          (a) PROGRAM.—The Secretary, working through the  
21          United States Geological Survey, and in cooperation with  
22          participating State geological surveys and water manage-  
23          ment agencies of the High Plains Aquifer States, shall es-  
24          tablish and carry out the High Plains Aquifer Comprehen-  
25          sive Hydrogeologic Characterization, Mapping, Modeling



1 and Monitoring Program, for the purposes of the charac-  
2 terization, mapping, modeling, and monitoring of the High  
3 Plains Aquifer. The Program shall undertake on a county-  
4 by-county level or at the largest scales and most detailed  
5 levels determined to be appropriate on a state-by-state and  
6 regional basis: (1) mapping of the hydrogeological configu-  
7 ration of the High Plains Aquifer; and (2) with respect  
8 to the High Plains Aquifer, analyses of the current and  
9 past rates at which groundwater is being withdrawn and  
10 recharged, the net rate of decrease or increase in High  
11 Plains Aquifer storage, the factors controlling the rate of  
12 horizontal and vertical migration of water within the High  
13 Plains Aquifer, and the current and past rate of change  
14 of saturated thickness within the High Plains Aquifer.  
15 The Program shall also develop, as recommended by the  
16 State panels referred to in subsection (d)(1), regional data  
17 bases and groundwater flow models.

18 (b) FUNDING.—The Secretary shall make available  
19 fifty percent of the funds available pursuant to this title  
20 for use in carrying out the State component of the Pro-  
21 gram, as provided for by subsection (d).

22 (c) FEDERAL PROGRAM COMPONENT.—

23 (1) PRIORITIES.—The Program shall include a  
24 Federal component, developed in consultation with

1 the Federal Review Panel provided for by subsection  
2 (e), which shall have as its priorities—

3 (A) coordinating Federal, State, and local,  
4 data, maps, and models into an integrated  
5 physical characterization of the High Plains Aquifer;  
6

7 (B) supporting State and local activities  
8 with scientific and technical specialists; and

9 (C) undertaking activities and providing  
10 technical capabilities not available at the State  
11 and local levels.

12 (2) INTERDISCIPLINARY STUDIES.—The Fed-  
13 eral component shall include interdisciplinary studies  
14 that add value to hydrogeologic characterization,  
15 mapping, modeling and monitoring for the High  
16 Plains Aquifer.

17 (d) STATE PROGRAM COMPONENT.—

18 (1) PRIORITIES.—Upon election by a High  
19 Plains Aquifer State, the State may participate in  
20 the State component of the Program which shall  
21 have as its priorities hydrogeologic characterization,  
22 mapping, modeling, and monitoring activities in  
23 areas of the High Plains Aquifer that will assist in  
24 addressing issues relating to groundwater depletion  
25 and resource assessment of the Aquifer. As a condi-

1       tion of participating in the State component of the  
2       Program, the Governor or Governor's designee shall  
3       appoint a State panel representing a broad range of  
4       users of, and persons knowledgeable regarding,  
5       hydrogeologic data and information, which shall be  
6       appointed by the Governor of the State or the Gov-  
7       ernor's designee. Priorities under the State compo-  
8       nent shall be based upon the recommendations of  
9       the State panel.

10               (2) AWARDS.—(A) Twenty percent of the Fed-  
11       eral funds available under the State component shall  
12       be equally divided among the State geological sur-  
13       veys of the High Plains Aquifer States to carry out  
14       the purposes of the Program provided for by this  
15       title. In the event that the State geological survey is  
16       unable to utilize the funding for such purposes, the  
17       Secretary may, upon the petition of the Governor of  
18       the State, direct the funding to some other agency  
19       of the State to carry out the purposes of the Pro-  
20       gram.

21               (B) In the case of a High Plains Aquifer State  
22       that has elected to participate in the State compo-  
23       nent of the Program, the remaining funds under the  
24       State component shall be competitively awarded to  
25       State or local agencies or entities in the High Plains

1     Aquifer States, including State geological surveys,  
2     State water management agencies, institutions of  
3     higher education, or consortia of such agencies or  
4     entities. A State may submit a proposal for the  
5     United States Geological Survey to undertake activi-  
6     ties and provide technical capabilities not available  
7     at the State and local levels. Such funds shall be  
8     awarded by the Director only for proposals that have  
9     been recommended by the State panels referred to in  
10    subsection (d)(1), subjected to independent peer re-  
11    view, and given final prioritization and recommenda-  
12    tion by the Federal Review Panel established under  
13    subsection (e). Proposals for multistate activities  
14    must be recommended by the State panel of at least  
15    one of the affected States.

16    (e) FEDERAL REVIEW PANEL.—

17        (1) ESTABLISHMENT.—There shall be estab-  
18    lished a Federal Review Panel to evaluate the pro-  
19    posals submitted for funding under the State compo-  
20    nent under subsection (d)(2)(B) and to recommend  
21    approvals and levels of funding. In addition, the  
22    Federal Review Panel shall review and coordinate  
23    the Federal component priorities under subsection  
24    (c)(1), Federal interdisciplinary studies under sub-

1 section (c)(2), and the State component priorities  
2 under subsection (d)(1).

3 (2) COMPOSITION AND SUPPORT.—Not later  
4 than 3 months after the date of enactment of this  
5 title, the Secretary shall appoint to the Federal Re-  
6 view Panel: (1) three representatives of the United  
7 States Geological Survey, at least one of which shall  
8 be a hydrologist or hydrogeologist; and (2) four rep-  
9 resentatives of the geological surveys and water  
10 management agencies of the High Plains Aquifer  
11 States from lists of nominees provided by the Asso-  
12 ciation and the Council, so that there are two rep-  
13 resentatives of the State geological surveys and two  
14 representatives of the State water management  
15 agencies. Appointment to the Panel shall be for a  
16 term of 3 years. The Director shall provide technical  
17 and administrative support to the Federal Review  
18 Panel. Expenses for the Federal Review Panel shall  
19 be paid from funds available under the Federal com-  
20 ponent of the Program.

21 (f) LIMITATION.—The United States Geological Sur-  
22 vey shall not use any of the Federal funds to be made  
23 available under the State component for any fiscal year  
24 to pay indirect, servicing, or Program management  
25 charges. Recipients of awards granted under subsection

1 (d)(2)(B) shall not use more than 18 percent of the Fed-  
2 eral award amount for any fiscal year for indirect, serv-  
3 icing, or Program management charges. The Federal  
4 share of the costs of an activity funded under subsection  
5 (d)(2)(B) shall be no more than 50 percent of the total  
6 cost of that activity. The Secretary may apply the value  
7 of in-kind contributions of property and services to the  
8 non-Federal share of the costs of the activity.

9 **SEC. 504. PLAN.**

10 The Secretary, acting through the Director, shall, in  
11 consultation with the Association, the Council, the Federal  
12 Review Panel, and the State panels, prepare a plan for  
13 the High Plains Aquifer Hydrogeologic Characterization,  
14 Mapping, Modeling and Monitoring Program. The plan  
15 shall address overall priorities for the Program and a man-  
16 agement structure and Program operations, including the  
17 role and responsibilities of the United States Geological  
18 Survey and the States in the Program, and mechanisms  
19 for identifying priorities for the Federal component and  
20 the State component.

21 **SEC. 505. REPORTING REQUIREMENTS.**

22 (a) REPORT ON PROGRAM IMPLEMENTATION.—One  
23 year after the date of enactment of this title, and every  
24 2 years thereafter through fiscal year 2011, the Secretary  
25 shall submit a report on the status of implementation of

1 the Program established by this Act to the Committee on  
2 Energy and Natural Resources of the Senate, the Com-  
3 mittee on Resources of the House of Representatives, and  
4 the Governors of the High Plains Aquifer States. The ini-  
5 tial report submitted by the Secretary shall contain the  
6 plan required by section 504.

7 (b) REPORT ON HIGH PLAINS AQUIFER.—One year  
8 after the date of enactment of this title and every year  
9 thereafter through fiscal year 2011, the Secretary shall  
10 submit a report to the Committee on Energy and Natural  
11 Resources of the Senate, the Committee on Resources of  
12 the House of Representatives, and the Governors of the  
13 High Plains Aquifer States on the status of the High  
14 Plains Aquifer, including aquifer recharge rates, extrac-  
15 tion rates, saturated thickness, and water table levels.

16 (c) ROLE OF FEDERAL REVIEW PANEL.—The Fed-  
17 eral Review Panel shall be given an opportunity to review  
18 and comment on the reports required by this section.

19 **SEC. 506. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated such sums  
21 as may be necessary for each of the fiscal years 2003  
22 through 2011 to carry out this title.

1     **TITLE VI—CALFED BAY-DELTA**  
 2     **PROGRAM AUTHORIZATION**

3     **SEC. 601. CALFED BAY-DELTA PROGRAM.**

4         (a) The Secretary of the Interior and the heads of  
 5 the other Federal agencies may participate in the Calfed  
 6 Bay-Delta Authority established by the California Bay-  
 7 Delta Authority Act (2002 Cal. Stat. Chap. 812) to the  
 8 extent not inconsistent with other law.

9         (b) During each of the fiscal years 2003 through  
 10 2005, the Secretary of the Interior and the heads of other  
 11 Federal agencies identified in the Record of Decision of  
 12 August 28, 2000, are also authorized to carry out aspects  
 13 of the Calfed Bay-Delta Program for which Federal funds  
 14 are appropriated.

15     **TITLE VII—T’UF SHUR BIEN**  
 16     **PRESERVATION TRUST AREA**  
 17     **ACT**

18     **SEC. 701. SHORT TITLE.**

19         This Act may be cited as the “T’uf Shur Bien Preser-  
 20 vation Trust Area Act”.

21     **SEC. 702. FINDING AND STATEMENT OF PURPOSE.**

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



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

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

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

11 (2) confirm the status of National Forest and  
12 Wilderness lands in the Area while resolving issues  
13 associated with the Pueblo’s lawsuit and the opin-  
14 ions of the Solicitor of the Department of the Inte-  
15 rior dated December 9, 1988 (M–36963; 96 I.D.  
16 331) and January 19, 2001 (M–37002); and

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

20 **SEC. 703. DEFINITIONS.**

21 For purposes of this Act:

22 (a) AREA.—The term “Area” means the T’uf Shur  
23 Bien Preservation Trust Area as depicted on the map, and  
24 excludes the subdivisions, Pueblo-owned lands, the crest

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **SEC. 704. T’UF SHUR BIEN PRESERVATION TRUST AREA.**

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

20 (1) to recognize and protect in perpetuity the  
21 Pueblo’s rights and interests in and to the Area, as  
22 specified in section 705(a) of this Act;

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

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

3           (b) ADMINISTRATION AND APPLICABLE LAW.—The  
4           Secretary, acting through the Forest Service, shall con-  
5           tinue to administer the Area as part of the National For-  
6           est System and incorporate the provisions of this Act af-  
7           fecting management of the Area, including section  
8           705(a)(3) and section 707.

9           (c) EXCEPTIONS.—(1) Traditional and cultural uses  
10          by Pueblo members and members of other federally recog-  
11          nized Indian tribes authorized to use the Area by the  
12          Pueblo under section 705(a)(4) of this Act shall not be  
13          restricted except by the Wilderness Act and its regulations  
14          as they exist on the date of enactment of this Act and  
15          by applicable Federal wildlife protection laws as provided  
16          in section 706(a)(2) of this Act.

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

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

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

3 (d) AREA DEFINED.—(1) The Area shall be com-  
4 prised of approximately 9,890 acres of land within the  
5 Cibola National Forest as depicted on the map.

6 (2) As soon as practicable after enactment of this  
7 Act, the Secretary shall file the map and a legal descrip-  
8 tion of the Area with the Committee on Resources of the  
9 House of Representatives and with the Committee on En-  
10 ergy and Natural Resources of the Senate. The map and  
11 legal description shall be on file and available for public  
12 inspection in the Office of the Chief of the Forest Service,  
13 Department of Agriculture, Washington, District of Co-  
14 lumbia.

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

18 (A) clerical and typographical errors shall be  
19 corrected;

20 (B) changes that may be necessary pursuant to  
21 sections 709(b), 709(d), 709(e), 714(c), and 714(d)  
22 shall be made; and

23 (C) to the extent the map and the language of  
24 this Act conflict, the language of the Act controls.

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

6 (f) PROHIBITED USES.—Notwithstanding any other  
7 provision of law, no use prohibited by the Wilderness Act  
8 as of the date of enactment of this Act may occur in the  
9 Wilderness portion of the Area; nor may any of the fol-  
10 lowing uses occur in any portion of the Area: Gaming or  
11 gambling of any kind, mineral production, timber produc-  
12 tion, and new uses or activities to which the Pueblo objects  
13 pursuant to section 705(a)(3) of this Act. The Area is  
14 closed to the location of mining claims under the Mining  
15 Law of 1872 (30 U.S.C. § 22).

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

22 **SEC. 705. PUEBLO OF SANDIA RIGHTS AND INTERESTS IN**  
23 **THE AREA.**

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



1           (1) free and unrestricted access to the Area for  
2 traditional and cultural uses to the extent not incon-  
3 sistent with the Wilderness Act and its regulations  
4 as they exist on the date of enactment of this Act  
5 and with applicable Federal wildlife protection laws  
6 as provided in section 706(a)(2);

7           (2) perpetual preservation of the Wilderness  
8 and National Forest character of the Area under  
9 this Act;

10          (3) rights in the management of the Area as set  
11 forth in section 707, which include—

12               (A) the right to consent or withhold con-  
13 sent to new uses;

14               (B) the right to consultation regarding  
15 modified uses;

16               (C) the right to consultation regarding the  
17 management and preservation of the Area; and

18               (D) the right to dispute resolution proce-  
19 dures;

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

1           (5) such other rights and interests as are enu-  
2           merated and recognized in sections 704, 705(c),  
3           707, 708, and 709.

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

8           (c) COMPENSABLE INTEREST.—(1) If, by an Act of  
9 Congress enacted subsequent to the effective date of this  
10 Act, Congress diminishes the Wilderness and National  
11 Forest designation of the Area by authorizing a use pro-  
12 hibited by section 704(f) in all or any portion of the Area,  
13 or denies the Pueblo access for any traditional and cul-  
14 tural uses in all or any portion of the Area, the United  
15 States shall compensate the Pueblo as if the Pueblo had  
16 held a fee title interest in the affected portion of the Area  
17 and as though the United States had acquired such inter-  
18 est by legislative exercise of its power of eminent domain,  
19 and the restrictions of sections 704(f) and 706(a) shall  
20 be disregarded in determining just compensation owed to  
21 the Pueblo.

22           (2) Any compensation made to the Pueblo pursuant  
23 to subsection (c)(1) does not in any way affect the extin-  
24 guishment of claims set forth in section 710.

1 **SEC. 706. LIMITATIONS ON PUEBLO OF SANDIA RIGHTS**  
2 **AND INTERESTS IN THE AREA.**

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

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

9 (2) any exemption from applicable Federal wild-  
10 life protection laws;

11 (3) any right to engage in any activity or use  
12 prohibited in section 704(f); or

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

15 (b) **EXCEPTION.**—No person who exercises tradi-  
16 tional and cultural use rights as authorized in section  
17 705(a)(4) of this Act may be prosecuted for a Federal  
18 wildlife offense requiring proof of a violation of a State  
19 law or regulation.

20 **SEC. 707. MANAGEMENT OF THE AREA.**

21 (a) **PROCESS.**—

22 (1) **GENERAL.**—

23 (A) The Forest Service shall consult with  
24 the Pueblo of Sandia not less than twice a year,  
25 unless otherwise mutually agreed, concerning  
26 protection, preservation, and management of

1 the Area, including proposed new and modified  
2 uses and activities in the Area and authoriza-  
3 tions that are anticipated during the next 6  
4 months and approved in the preceding 6  
5 months.

6 (2) NEW USES AND ACTIVITIES.—(A) If after  
7 consultation the Pueblo of Sandia denies its consent  
8 for a new use or activity within 30 days of the con-  
9 sultation, the Forest Service will not be authorized  
10 to proceed with the activity or use. If the Pueblo  
11 consents to the new use or activity in writing or fails  
12 to respond within 30 days, the Forest Service may  
13 proceed with the notice and comment process and  
14 the environmental analysis.

15 (B) Before the Forest Service signs a Record of  
16 Decision (ROD) or Decision Notice (DN) for a pro-  
17 posed use or activity, the Forest Service will again  
18 request Pueblo consent within 30 days of the Pueb-  
19 lo's receipt of the proposed ROD or DN. If the  
20 Pueblo refuses to consent, the activity or use will not  
21 be authorized. If the Pueblo fails to respond to the  
22 consent request within 30 days after the proposed  
23 ROD or DN is provided to the Pueblo, the Pueblo  
24 will be deemed to have consented to the proposed

1 ROD or DN and the Forest Service may proceed to  
2 issue the final ROD or DN.

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

6 (A) the purpose and need for the proposed  
7 action or activity,

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

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

11 Any person may file an action in the United  
12 States District Court for the District of New Mexico  
13 to challenge Forest Service determinations of what  
14 constitutes a new or a modified use or activity.

15 (b) EMERGENCIES AND EMERGENCY CLOSURE OR-  
16 DERS.—The Forest Service shall retain its existing au-  
17 thorities to manage emergency situations, to provide for  
18 public safety, and to issue emergency closure orders in the  
19 Area subject to applicable law. The Forest Service shall  
20 notify the Pueblo of Sandia regarding emergencies, public  
21 safety issues, and emergency closure orders as soon as  
22 possible. Such actions are not subject to the Pueblo's right  
23 to withhold consent to new uses in the Area as set forth  
24 in section 705(a)(3)(A).

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

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

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

23 (B) DISPUTES REQUIRING IMMEDIATE  
24 RESOLUTION.—In the event of a conflict that  
25 requires immediate resolution to avoid immi-

1           nent, substantial and irreparable harm, the  
2           party alleging such conflict shall notify the  
3           other party and seek to resolve the dispute  
4           within 3 days of the date of notification. If the  
5           parties are unable to resolve the dispute within  
6           3 days, either party may file an action for im-  
7           mediate relief in the United States District  
8           Court for the District of New Mexico, and the  
9           procedural exhaustion requirements set forth  
10          above shall not apply.

11 **SEC. 708. JURISDICTION OVER THE AREA.**

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

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

20           (2) The Pueblo shall have jurisdiction over  
21 crimes committed by its members or by members of  
22 another federally recognized Indian tribe who are  
23 present in the Area with the Pueblo's permission  
24 pursuant to section 705(a)(4).

1           (3) The United States shall have jurisdiction  
2 over—

3           (A) the offenses listed in section 1153 of  
4 title 18, United States Code, including any of-  
5 fenses added to the list in that statute by fu-  
6 ture amendments thereto, when such offenses  
7 are committed by members of the Pueblo and  
8 other federally recognized Indian tribes;

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

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

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

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



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

7 (2) The Pueblo shall have exclusive civil adjudicatory  
8 jurisdiction over—

9 (A) disputes involving only members of the  
10 Pueblo;

11 (B) civil actions brought by the Pueblo against  
12 members of the Pueblo; and

13 (C) civil actions brought by the Pueblo against  
14 members of other federally recognized Indian tribes  
15 for violations of understandings between the Pueblo  
16 and that member's tribe regarding use or access to  
17 the Area for traditional and cultural purposes.

18 (3) The Pueblo shall have no regulatory jurisdiction  
19 over the Area with the exception of—

20 (A) exclusive authority to regulate traditional  
21 and cultural uses by the Pueblo's own members and  
22 to administer access to the Area by other federally  
23 recognized Indian tribes for traditional and cultural  
24 uses, to the extent such regulation is consistent with  
25 this Act; and

1 (B) the Pueblo shall have exclusive authority to  
2 regulate hunting and trapping in the Area by its  
3 members that is related to traditional and cultural  
4 purposes: *Provided*, That any hunting and trapping  
5 conducted by Pueblo members as a traditional and  
6 cultural use within the Area, excluding that part of  
7 the Area contained within Sections 13, 14, 23, 24,  
8 and the northeast quarter of Section 25 of T12N,  
9 R4E, and Section 19 of T12N, R5E, N.M.P.M.,  
10 Sandoval County, New Mexico, shall be regulated by  
11 the Pueblo in a manner consistent with the regula-  
12 tions of the State of New Mexico concerning types  
13 of weapons and proximity of hunting and trapping  
14 to trails and residences.

15 (4) The Pueblo shall have no authority to impose  
16 taxes within the Area.

17 (5) The State of New Mexico and local public bodies  
18 shall have no authority within the Area to tax the activities  
19 or the property of the Pueblo, its members, or members  
20 of other federally recognized Indian tribes authorized to  
21 use the Area under section 705(a)(4) of this Act.

22 **SEC. 709. SUBDIVISIONS AND OTHER PROPERTY INTER-**  
23 **ESTS.**

24 (a) SUBDIVISIONS.—The subdivisions are excluded  
25 from the Area. The Pueblo shall have no civil or criminal

1 jurisdiction for any purpose, including adjudicatory, tax-  
2 ing, zoning, regulatory or any other form of jurisdiction,  
3 over the subdivisions and property interests therein, and  
4 the laws of the Pueblo shall not apply to the subdivisions.  
5 The jurisdiction of the State of New Mexico and local pub-  
6 lic bodies over the subdivisions and property interests  
7 therein shall continue in effect, except that upon applica-  
8 tion of the Pueblo a tract comprised of approximately 35  
9 contiguous, nonsubdivided acres in the northern section of  
10 Evergreen Hills owned in fee by the Pueblo at the time  
11 of enactment of this Act, shall be transferred to the  
12 United States and held in trust for the Pueblo by the  
13 United States and administered by the Secretary of the  
14 Interior. Such trust land shall be subject to all limitations  
15 on use pertaining to the Area contained in this Act.

16 (b) PIEDRA LISA.—The Piedra Lisa tract is excluded  
17 from the Area notwithstanding any subsequent acquisition  
18 of the tract by the Pueblo. If the Secretary or the Pueblo  
19 acquires the Piedra Lisa tract, the tract shall be trans-  
20 ferred to the United States and is hereby declared to be  
21 held in trust for the Pueblo by the United States and ad-  
22 ministered by the Secretary of the Interior subject to all  
23 limitations on use pertaining to the Area contained in this  
24 Act. The restriction contained in section 706(a)(4) shall  
25 not apply outside of Forest Service System trails. Until

1 acquired by the Secretary or Pueblo, the jurisdiction of  
2 the State of New Mexico and local public bodies over the  
3 Piedra Lisa tract and property interests therein shall con-  
4 tinue in effect.

5 (c) CREST FACILITIES.—The lands on which the  
6 crest facilities are located are excluded from the Area. The  
7 Pueblo shall have no civil or criminal jurisdiction for any  
8 purpose, including adjudicatory, taxing, zoning, regulatory  
9 or any other form of jurisdiction, over the lands on which  
10 the crest facilities are located and property interests there-  
11 in, and the laws of the Pueblo shall not apply to those  
12 lands. The pre-existing jurisdictional status of those lands  
13 shall continue in effect.

14 (d) SPECIAL USE PERMIT AREA.—The lands de-  
15 scribed in the special use permit are excluded from the  
16 Area. The Pueblo shall have no civil or criminal jurisdic-  
17 tion for any purpose, including adjudicatory, taxing, zon-  
18 ing, regulatory, or any other form of jurisdiction, over the  
19 lands described in the special use permit, and the laws  
20 of the Pueblo shall not apply to those lands. The pre-exist-  
21 ing jurisdictional status of these lands shall continue in  
22 effect. In the event the special use permit, during its exist-  
23 ing term or any future terms or extensions, requires  
24 amendment to include other lands in the Area necessary  
25 to realign the existing or any future replacement tram

1 line, associated structures, or facilities, the lands subject  
2 to that amendment shall thereafter be excluded from the  
3 Area and shall have the same status under this Act as  
4 the lands currently described in the special use permit.  
5 Any lands dedicated to aerial tramway and related uses  
6 and associated facilities that are excluded from the special  
7 use permit through expiration, termination or the amend-  
8 ment process shall thereafter be included in the Area but  
9 only after final agency action is no longer subject to any  
10 appeals.

11 (e) LA LUZ TRACT.—The La Luz tract now owned  
12 in fee by the Pueblo is excluded from the Area and upon  
13 application by the Pueblo shall be transferred to the  
14 United States and held in trust for the Pueblo by the  
15 United States and administered by the Secretary of the  
16 Interior subject to all limitations on use pertaining to the  
17 Area contained in this Act. The restriction contained in  
18 section 706(a)(4) shall not apply outside of Forest Service  
19 System trails.

20 (f) EVERGREEN HILLS ACCESS.—The Secretary,  
21 consistent with section 1323(a) of the Alaska National In-  
22 terest Lands Conservation Act (16 U.S.C. 3210), shall en-  
23 sure that Forest Service Road 333D, as depicted on the  
24 map, is maintained in an adequate condition consistent

1 with the terms of section 1323(a) of the Alaska National  
2 Interest Lands Conservation Act (16 U.S.C. 3210).

3 (g) PUEBLO FEE LANDS.—Those properties not spe-  
4 cifically addressed in subsections (a) or (e) of this section  
5 that are owned in fee by the Pueblo within the subdivisions  
6 are excluded from the Area and shall be subject to the  
7 jurisdictional 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 in order to provide  
15 for public access to the subdivisions, the special use  
16 permit land and facilities, the other leasehold and  
17 easement rights and interests of the Sandia Peak  
18 Tram Company and its affiliates, 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) Except as provided in the Settlement  
16 Agreement, existing rights-of-way or leasehold  
17 interests and obligations held by the Sandia  
18 Peak Tram Company and its affiliates, shall be  
19 preserved, protected, and unaffected by this  
20 Act.

21 (2) UTILITY RIGHTS-OF-WAY.—In accordance  
22 with the Pueblo having given its consent in the Set-  
23 tlement Agreement, the Secretary of the Interior  
24 shall grant irrevocable utility rights-of-way in per-  
25 petuity across Pueblo lands to appropriate utility or

1 other service providers serving Sandia Heights Addi-  
2 tion, Sandia Heights North Units I, II, and 3, the  
3 special use permit lands, Tierra Monte, and Valley  
4 View Acres, including rights-of-way for natural gas,  
5 power, water, telecommunications, and cable tele-  
6 vision services. Such rights-of-way shall be within ex-  
7 isting utility corridors as depicted on the map or, for  
8 certain water lines, as described in the existing grant  
9 of easement to the Sandia Peak Utility Company:  
10 *Provided*, That use of water line easements outside  
11 the utility corridors depicted on the map shall not be  
12 used for utility purposes other than water lines and  
13 associated facilities. Except where above-ground fa-  
14 cilities already exist, all new utility facilities shall be  
15 installed underground unless the Pueblo agrees oth-  
16 erwise. To the extent that enlargement of existing  
17 utility corridors is required for any technologically-  
18 advanced telecommunication, television, or utility  
19 services, the Pueblo shall not unreasonably withhold  
20 agreement to a reasonable enlargement of the ease-  
21 ments described above.

22 (i) FOREST SERVICE RIGHTS-OF-WAY.—In accord-  
23 ance with the Pueblo having given its consent in the Set-  
24 tlement Agreement, the Secretary of the Interior shall  
25 grant to the Forest Service the following irrevocable



1 rights-of-way in perpetuity for Forest Service trails cross-  
2 ing land of the Pueblo in order to provide for public access  
3 to the Area and through Pueblo lands—

4 (1) a right-of-way for a portion of the Crest  
5 Spur Trail (Trail No. 84), crossing a portion of the  
6 La Luz tract, as identified on the map;

7 (2) a right-of-way for the extension of the Foot-  
8 hills Trail (Trail No. 365A), as identified on the  
9 map; and

10 (3) a right-of-way for that portion of the Piedra  
11 Lisa North-South Trail (Trail No. 135) crossing the  
12 Piedra Lisa tract, if the Pueblo ever acquires the  
13 Piedra Lisa tract.

14 **SEC. 710. EXTINGUISHMENT OF CLAIMS.**

15 (a) GENERAL.—Except for the rights and interests  
16 in and to the Area specifically recognized in sections 704,  
17 705, 707, 708, and 709, all Pueblo claims to right, title  
18 and interest of any kind, including aboriginal claims, in  
19 and to lands within the Area, any part thereof, and prop-  
20 erty interests therein, as well as related boundary, survey,  
21 trespass, and monetary damage claims, are hereby perma-  
22 nently extinguished. The United States title to the Area  
23 is hereby confirmed.

24 (b) SUBDIVISIONS.—Any Pueblo claims to right, title  
25 and interest of any kind, including aboriginal claims, in

1 and to the subdivisions and property interests therein (ex-  
2 cept for land owned in fee by the Pueblo as of the date  
3 of enactment of this Act), as well as related boundary,  
4 survey, trespass, and monetary damage claims, are hereby  
5 permanently extinguished.

6 (c) SPECIAL USE AND CREST FACILITIES AREAS.—  
7 Any Pueblo right, title and interest of any kind, including  
8 aboriginal claims, and related boundary, survey, trespass,  
9 and monetary damage claims, are hereby permanently ex-  
10 tinguished in and to—

11 (1) the lands described in the special use per-  
12 mit; and

13 (2) the lands on which the crest facilities are lo-  
14 cated.

15 (d) PUEBLO AGREEMENT.—As provided in the Set-  
16 tlement Agreement, the Pueblo has agreed to the relin-  
17 quishment and extinguishment of those claims, rights, ti-  
18 tles and interests extinguished pursuant to subsection (a),  
19 (b) and (c) of this section.

20 (e) CONSIDERATION.—The recognition of the Pueb-  
21 lo's rights and interests in this Act constitutes adequate  
22 consideration for the Pueblo's agreement to the extin-  
23 guishment of the Pueblo's claims in this section and the  
24 right-of-way grants contained in section 709, and it is the  
25 intent of Congress that those rights and interests may

1 only be diminished by a future Act of Congress specifically  
2 authorizing diminishment of such rights, with express ref-  
3 erence to this Act.

4 **SEC. 711. CONSTRUCTION.**

5 (a) **STRICT CONSTRUCTION.**—This Act recognizes  
6 only enumerated rights and interests, and no additional  
7 rights, interests, obligations, or duties shall be created by  
8 implication.

9 (b) **EXISTING RIGHTS.**—To the extent there exists  
10 within the Area at the time of enactment of this Act any  
11 valid private property rights associated with the Piedra  
12 Lisa tract or other private lands that are not otherwise  
13 addressed in this Act, such rights are not modified or oth-  
14 erwise affected by this Act, nor is the exercise of any such  
15 right subject to the Pueblo’s right to withhold consent to  
16 new uses in the Area as set forth in section 705(a)(3)(A).

17 (c) **NOT PRECEDENT.**—The provisions of this Act  
18 creating certain rights and interests in the National For-  
19 est System are uniquely suited to resolve the Pueblo’s  
20 claim and the geographic and societal situation involved,  
21 and shall not be construed as precedent for any other situ-  
22 ation involving management of the National Forest Sys-  
23 tem.

24 (d) **FISH AND WILDLIFE.**—Except as provided in sec-  
25 tion 708(b)(3), nothing in this Act shall be construed as

1 affecting the responsibilities of the State of New Mexico  
2 with respect to fish and wildlife, including the regulation  
3 of hunting, fishing, or trapping within the Area.

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

13 **SEC. 712. JUDICIAL REVIEW.**

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

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

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

5 **SEC. 713. EFFECTIVE DATE.**

6 The provisions of this Act shall take effect imme-  
7 diately upon enactment of this Act.

8 **SEC. 714. AUTHORIZATION OF APPROPRIATIONS AND RE-**  
9 **LATED AUTHORITIES.**

10 (a) GENERAL.—There are hereby authorized to be  
11 appropriated such sums as may be necessary to carry out  
12 this Act, including such sums as may be necessary for the  
13 Forest Service to acquire ownership of, or other interest  
14 in, lands within the external boundaries of the Area as  
15 authorized in subsection (d).

16 (b) CONTRIBUTIONS.—(1) The Secretary is author-  
17 ized to accept contributions from the Pueblo, or from  
18 other persons or governmental entities, to perform and  
19 complete a survey of the Area, or otherwise for the benefit  
20 of the Area in accordance with this Act.

21 (2) The Secretary shall complete a survey of the Area  
22 within 1 year of the date of enactment of this Act.

23 (c) LAND EXCHANGE.—Within 180 days after the  
24 date of enactment of this Act, after consultation with the  
25 Pueblo, the Secretary is directed in accordance with appli-

1 cable laws to prepare and offer a land exchange of Na-  
2 tional Forest lands outside the Area and contiguous to the  
3 northern boundary of the Pueblo's Reservation within sec-  
4 tions 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval  
5 County, New Mexico excluding Wilderness land, for lands  
6 owned by the Pueblo in the Evergreen Hills subdivision  
7 in Sandoval County contiguous to National Forest land,  
8 and the La Luz tract in Bernalillo County. Notwith-  
9 standing section 206(b) of the Federal Land Policy and  
10 Management Act (43 U.S.C. 1716(b)), the Secretary may  
11 either make or accept a cash equalization payment in ex-  
12 cess of 25 percent of the total value of the lands or inter-  
13 ests transferred out of Federal ownership. Any funds re-  
14 ceived by the Secretary as a result of the exchange shall  
15 be deposited in the fund established under the Act of De-  
16 cember 4, 1967, known as the Sisk Act (16 U.S.C. 484a),  
17 and shall be available to purchase non-Federal lands with-  
18 in or adjacent to the National Forests in the State of New  
19 Mexico. All lands exchanged or conveyed to the Pueblo are  
20 hereby declared to be held in trust for the Pueblo by the  
21 United States and added to the Pueblo's Reservation sub-  
22 ject to all existing and outstanding rights and shall remain  
23 in their natural state and shall not be subject to commer-  
24 cial development of any kind. Lands exchanged or con-  
25 veyed to the Forest Service shall be subject to all limita-

1 tions on use pertaining to the Area under this Act. If the  
2 land exchange offer is not made within 180 days after the  
3 date of enactment of this Act, the Secretary shall submit  
4 to the Committee on Energy and Natural Resources of  
5 the United States Senate and the Committee on Resources  
6 of the United States House of Representatives, a report  
7 explaining the reasons for the failure to make the offer  
8 including an assessment of the need for any additional leg-  
9 islation that may be necessary for the exchange. If addi-  
10 tional legislation is not necessary, the Secretary, con-  
11 sistent with this section, should proceed with the exchange  
12 pursuant to existing law.

13 (d) LAND ACQUISITION.—(1) The Secretary is au-  
14 thorized to acquire lands owned by the Pueblo within the  
15 Evergreen Hills Subdivision in Sandoval County or any  
16 other privately held lands inside of the exterior boundaries  
17 of the Area. The boundaries of the Cibola National Forest  
18 and the Area shall be adjusted to encompass any lands  
19 acquired pursuant to this section.

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

23 (A) the right-of-way established pursuant  
24 to section 709(i)(3); and

1 (B) the conservation easement established  
2 by the limitations on use of the Piedra Lisa  
3 tract pursuant to section 709(b).

4 (e) REIMBURSEMENT OF CERTAIN COSTS.—(1) The  
5 Pueblo, the County of Bernalillo, New Mexico, and any  
6 person who owns or has owned property inside of the exte-  
7 rior boundaries of the Area as designated on the map, and  
8 who has incurred actual and direct costs as a result of  
9 participating in the case of Pueblo of Sandia v. Babbitt,  
10 Civ. No. 94–2624 HHG (D.D.C.), or other proceedings  
11 directly related to resolving the issues litigated in that  
12 case, may apply for reimbursement in accordance with this  
13 section. Costs directly related to such participation which  
14 shall qualify for reimbursement shall be—

15 (A) dues or payments to a homeowner associa-  
16 tion for the purpose of legal representation; and

17 (B) legal fees and related expenses.

18 (2) The reimbursement provided in this subsection  
19 shall be in lieu of that which might otherwise be available  
20 pursuant to the Equal Access to Justice Act (24 U.S.C.  
21 2412).

22 (3) The Secretary of the Treasury is authorized and  
23 directed to make reimbursement payments as provided in  
24 this section out of any money not otherwise appropriated.



1       (4) Applications for reimbursement shall be filed  
2 within 180 days of the date of enactment of this Act with  
3 the Department of the Treasury, Financial Management  
4 Service, Washington, District of Columbia.

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

        Passed the Senate November 20 (legislative day, No-  
vember 19), 2002.

Attest:

*Secretary.*

107TH CONGRESS  
2D SESSION

**S. 2556**

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**AN ACT**

To authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.