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TO RESOLVE CERTAIN NATIVE AMERICAN CLAIMS IN NEW MEXICO, AND FOR OTHER PURPOSES

MAY 3, 2006.—Ordered to be printed

Mr. MCCAIN, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1773]

The Committee on Indian Affairs, to which was referred the bill (S. 1773) to resolve certain Native American claims in New Mexico, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 1773, the Pueblo de San Ildefonso Claims Settlement Act of 2005, is to ratify and provide for the implementation of two agreements which, together, would effect a settlement of the Pueblo de San Ildefonso's land-related claims against the United States. The principal agreement is the Settlement Agreement between the United States and the Pueblo de San Ildefonso (the "Pueblo"), which would resolve various claims of the Pueblo that were asserted or could have been asserted against the United States in Pueblo of San Ildefonso v. United States, Docket No. 354 in the United States Court of Federal Claims, as well as releasing certain other specified land-related claims against the United States, persons, the State of New Mexico and its subdivisions, and other Indian tribes. The other is a related agreement between the Incorporated County of Los Alamos, the Pueblo, the United States Department of Agriculture—Forest Service, and the United States Department of the Interior—Bureau of Indian Affairs, providing for, inter alia, the sale and conveyance of certain other National Forest System lands to the County of Los Alamos.

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Apart from its significance to the Pueblo and the United States as the means for resolving a case that has been pending for almost 55 years, the enactment of S. 1773 would represent something of a milestone in the history of Federal Indian Policy: it would settle the last remaining case filed under the provisions of the Indian Claims Commission Act of 1946.[1]

BACKGROUND

Since time immemorial, the Pueblo de San Ildefonso has been a tribe of Indians located in what is now northern New Mexico, along the upper Rio Grande. Although the government of Spain issued a land grant to the Pueblo in 1704, the area within the grant was considerably smaller than the total area of the Pueblo's aboriginal lands. In 1848, the United States, under the Treaty of Guadalupe-Hidalgo,[2] recognized the Pueblo's title to the lands included in the Spanish grant, but large areas of aboriginal lands lying outside of the grant were, over the years, taken or disposed of by the United States without compensation to the Pueblo.[3]

In 1951, the Pueblo filed claims before the Indian Claims Commission seeking damages for these uncompensated losses of land as well as for the failure of the United States to deal with the Pueblo in conformity with the fair and honorable dealings standard of section 2 of the Indian Claims Commission Act. The Commission found that prior to the transfer of sovereignty from Mexico to the United States under the 1848 treaty, the Pueblo used and occupied a larger area than its current land holdings and that, although the governments of Spain and Mexico had already granted some of its aboriginal lands to third parties, other portions of those lands were later taken from the Pueblo by the United States.[4] The Commission found that the Pueblo's aboriginal lands, aside from its then current holdings, were taken or disposed of by the United States by three methods: by conveyances on various different dates to various third party grantees pursuant to the public land laws of the United States; by the establishment of the Jemez Forest Reserve (now part of the Santa Fe National Forest) in 1905; and by inclusion of a portion of those lands in the New Mexico Grazing District in 1941 pursuant to the Taylor Grazing Act.[5] The Commission's findings were affirmed by the United States Court of Claims in

[1] Act of August 13, 1946, 60 Stat. 1049 (Pub. L. No. 79–726, codified at 25 U.S.C. § 70 *et seq.*) (omitted from title 25 after termination of the Commission in September of 1978).

[2] See, Treaty of Peace, Friendship, Limits and Settlement, February 2, 1848, 9 Stat. 922.

[3] The Pueblo de San Ildefonso was one of several Indian pueblos that received land grants from Spain on various dates between 1689 and 1816. Following Mexico's independence from Spain in 1821, the Mexican government subsequently recognized the pueblos' ownership of these lands, as did the United States under the Treaty of Guadalupe-Hidalgo of 1848. Upon recommendation of the United States Surveyor General, Congress enacted legislation confirming 22 Spanish land grants to Indian pueblos, including the grant to the Pueblo de San Ildefonso. *See* "Treaty of Guadalupe Hidalgo—Definition and List of Community Land Grants in New Mexico," United States General Accounting Office, September 2001 (GAO–01–951), at page 17, and *United States* v. *Pueblo of San Ildefonso*, 513 F.2d 1383, 1387 (Ct.Cl. 1975).

[4] The United States stipulated to the Commission's findings relating to the boundaries of the Pueblo's aboriginal area and the portions of that area that were taken by United States without compensation. However, the U.S. disputed the dates of the takings, in that the dates of the takings affected the valuation of the lands and, therefore, the amount of compensation due to the Pueblo. *See* Indian Claims Commission Opinion and Findings, 30 Ind.Cl.Comm. 234, 235 (May 9, 1973). The Commission found that the Pueblo's aboriginal lands that lay outside of its current reservation and Spanish land grant totaled some 66,227 acres. *Id.*, at 262.

[5] *See*, Opinion and Findings, 30 Ind.Cl.Comm. at 236–37.

United States v. *Pueblo of San Ildefonso*, 513 F.2d 1383, 1396 (Ct.C1.1975).

With the dissolution of the Indian Claims Commission in 1978, the Pueblo's case, along with all other unresolved cases before the Commission, was transferred to the United States Court of Claims[6] and thereafter continued before the United States Court of Federal Claims, where, in light of additional claims asserted by the Pueblo, the case was organized under 5 subdockets. Subdocket A included claims for trespasses against the Pueblo's water rights; subdocket B, accounting claims alleging improper expenditure of the Pueblo's trust funds; subdocket C, claims for breach of trust for failure to make amounts due to the Pueblo productive and to replace lands and water lost to settlers; subdocket D, a claim for failure to obtain a particular parcel of land for the Pueblo's benefit in violation of the Federal government's duty to deal with it fairly and honorably; and subdocket E, the claims for uncompensated taking and disposal of aboriginal lands.

In 1996, the United States Court of Federal Claims ruled that the United States was liable to the Pueblo on all claims except the trespass claims under subdocket A. *See*, *Pueblo of San Ildefonso* v. *United States*, 35 Fed.Cl. 777 (1996). The Settlement Agreement that is the subject of S. 1773 would resolve all of the Pueblo's claims that were asserted or could have been asserted in its ICCA case as well as other land-related claims of the Pueblo to the extent described in the Agreement.

OVERVIEW OF SETTLEMENT AND S. 1773

Although Congress gave the Indian Claims Commission and the United States Court of Federal Claims jurisdiction to determine liability and damages, neither the Commission nor the United States Court of Federal Claims could restore land to tribes that brought claims under the Indian Claims Commission Act.[7] In its settlement negotiations with the Government following the 1996 decision in Pueblo of San Ildefonso v. United States, the Pueblo nevertheless pressed for return of its lands. After several years of negotiations between the Pueblo and several Federal agencies, the Pueblo and the United States have reached a mutually acceptable settlement that, if approved by Congress, would provide a process for selling and conveying to the Pueblo approximately 7100 acres of its aboriginal area that is now embraced within National Forest System lands lying contiguous to, and northwest of, the San Ildefonso Reservation, and that would also address concerns of the County of Los Alamos and the neighboring Pueblo of Santa Clara.[8]

S. 1773 would ratify the Settlement Agreement between the Pueblo and the United States and the related Los Alamos Agreement between the County of Los Alamos, the Pueblo, the U.S.D.A. Forest Service, and the Bureau of Indian Affairs and authorize the actions and activities contemplated by the terms of those agreements. The Settlement Agreement and the Los Alamos Agreement

[6] A total of 102 unresolved cases were transferred to the United States Court of Claims. *See*, F. Cohen, *Handbook of Federal Indian Law* 446 (2005 ed.).

[7] *See*, F. Cohen, supra, at 445.

[8] In addition to the resolution of support by the County of Los Alamos, the Council of the Pueblo of Santa Clara and the Counties of Santa Fe and Rio Arriba have adopted resolutions of support for the settlement contemplated by S. 1773.

are included in the Appendix to this report. By their own respective terms, both agreements are contingent upon approval by the United States Congress.

Under the Settlement Agreement, the Pueblo and the United States agree to file a motion for entry of final judgment in the amount of $6,900,000 and, after entry of judgment, the funds are to be deposited into a special settlement fund established under section 6 of the bill. In consideration of the benefits of the Settlement Agreement, the Pueblo agrees that all of its claims against the United States—with exceptions relating to its title to specific lands and appurtenant water rights identified in the bill and Settlement Agreement—that are based on aboriginal, Indian, or recognized title, that relate to federally-administered land, or that were, or could have been, asserted in Docket 354 before the United States Court of Federal Claims, are relinquished and extinguished. Similarly, subject to the exceptions specified in the Settlement Agreement, the Pueblo also agrees to the relinquishment and extinguishment of such land claims with respect to persons, the State of New Mexico and its subdivisions, and other Indian tribes.[9]

The bill would authorize the Pueblo to use $3.1 million of its settlement funds to purchase from the Forest Service approximately 7100 acres of land within the Santa Fe National Forest,[10] as provided and described in the Settlement Agreement. Thereafter, the Secretary of Agriculture would be authorized to use the proceeds received from the Pueblo to acquire other non-Federal lands in the State of New Mexico for National Forest System purposes.[11]

In addition to the Settlement Area Land, the bill would provide the Pueblo of Santa Clara with an exclusive 90-day option to purchase, subject to certain easements for Federal and private purposes, the "Northern Tier Land," about 740 acres of land located to the north of the Settlement Area Lands and adjacent to a segment of the southern boundary of the Santa Clara Reservation, for the sum of $310,000. The bill would direct the Secretary of Agriculture to sell the Northern Tier Land to the Pueblo of Santa Clara if it exercises its option. In the event that the Pueblo of Santa Clara fails to purchase the land as provided in the Act, the Secretary is directed to offer the land to the Pueblo de San Ildefonso for the same price.

The Settlement Area Land and the Northern Tier Land would be held in trust by the United States for the benefit of the Indian

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[9] Besides Federal lands administered by the Forest Service, National Park Service and Bureau of Land Management, the Pueblo's aboriginal claim boundary encompasses non-Federal lands owned by third party individuals and entities.

[10] Referred to in the bill as the "Settlement Area Land," the specific lands that are to be sold to the Pueblo have been selected and are depicted on the map attached as Appendix B to the Settlement Agreement. The $3.1 million price is subject to a quarterly increase at the rate of 3% per annum. Upon receipt of the deed to the lands from the Secretary of Agriculture, the Pueblo is authorized to convey its land to the United States in trust for the Pueblo.

[11] This would not be the first legislative settlement of an Indian Claims Commission Act case which provides for the conveyance to a tribe of a portion of its aboriginal lands within the National Forest System. The Santo Domingo Pueblo Claims Settlement Act of 2000, Pub. L. No. 106–425, approved a settlement of Santo Domingo Pueblo's claims asserted against the United States under the Indian Claims Commission Act as well as claims asserted in other litigation, and the settlement there authorized the placement of certain public lands administered by the Bureau of Land Management in trust for the Santo Domingo Pueblo and the use of its claims settlement funds for the purchase of National Forest System lands identified in a settlement agreement. As in S. 1773, the Santo Domingo settlement authorized the Secretary of Agriculture to use the proceeds from that sale of land to acquire non-Federal lands within or adjacent to National Forests in the State of New Mexico.

tribe that purchases the land without further administrative action by the Secretary of Agriculture or Secretary of the Interior.

The Settlement Agreement provides that the National Park Service and the Pueblo shall enter into a memorandum of understanding acknowledging the important and continuing role of certain areas within Bandelier National Monument in the on-going cultural practices of the Pueblo, and that the Bureau of Land Management and the Pueblo shall enter into another memorandum of understanding acknowledging and recognizing the Pueblo's long-standing and deep ancestral ties to certain land located to the south of the Pueblo de San Ildefonso Grant.

S. 1773 would also approve the Los Alamos Agreement, which contemplates two separate land transfers to the County of Los Alamos that are key components to the overall settlement with the Pueblo. In accordance with the Los Alamos Agreement and the Settlement Agreement, the bill would authorize the Pueblo to use a portion of its settlement funds to purchase from the Forest Service, at fair market value, the so-called "Water System Land"—approximately 555 acres of land within the Santa Fe National Forest adjacent to the Settlement Area Lands that are an important part of the County's water supply system. The Water System Land would then be conveyed to the County in fee, subject to a contingent remainder in the United States in trust for the Pueblo, in the event that the County ceases to use the entirety of those lands as part of its water supply system.

The Los Alamos Agreement also provides that the U.S.D.A. Forest Service will sell to the County, at fair market value, the "Los Alamos Townsite Lands," 6 non-contiguous tracts of National Forest System land just outside of the City of Los Alamos which, according to the agreement, contain existing infrastructure improvements belonging to or used by the County.[12] Additionally, this agreement provides for the maintenance and availability of certain public access roads that are part of the Forest Road Development System; amendments relating to the term of certain easements for State Highway 4; pavement widening of a portion of that highway; access to the COPAR Mine; an emergency evacuation route for the Los Alamos community through Pueblo lands; and other matters.

LEGISLATIVE HISTORY

S. 1773 was introduced on September 26, 2005, by Senator Pete Domenici for himself and Senator Bingaman and referred to the Committee on Indian Affairs. On March 29, 2006, the Committee ordered S. 1773 reported favorably with two amendments offered by Senator Domenici: one in section 7(c)(1), by adding "and for associated administrative costs" to clarify that the Secretary of Agriculture would be authorized to use receipts from the sale of National Forest System lands under the Act for administrative costs associated with the purchase of lands authorized by the Act, and the other in section 17, by adding "(except the conveyances and adjustments relating to the Los Alamos Townsite Land)" which would except the conveyances and adjustments authorized in connection with the Los Alamos Townsite Land from the 180-day time line in

[12] The 6 tracts of the Los Alamos Townsite Lands have a combined total of about 422 acres.

section 17 for completion of conveyances and adjustments contemplated by the Act.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In an open business session on March 29, 2006, the Committee, by voice vote, ordered the bill reported favorably to the Senate with the two amendments described above.

SECTION-BY-SECTION ANALYSIS

Section 1 cites the short title of S. 1773 as the "Pueblo de San Ildefonso Claims Settlement Act of 2005."

Section 2(a) sets forth the definitions of 12 terms: "Administrative Access," "County," "Los Alamos Agreement," Los Alamos Townsite Land," Northern Tier Land," "Pending Litigation," "Pueblo," "Settlement Agreement," "Settlement Area Land," "Settlement Fund," "Sisk Act," and "Water System Land."

Section 2(b) sets forth the purposes of the bill: to finally dispose, as set forth in sections 4 and 5, of the Pueblo's rights, claims, or demands that were asserted or could have been asserted in the "Pending Litigation" (*i.e.*, Docket 354 in the United States Court of Federal Claims); extinguish claims based on aboriginal, Indian, or recognized title, or any other title claims under section 5 of the bill; authorize the Pueblo to acquire the Settlement Area Land and the Secretary of Agriculture to convey the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land for market value consideration and for such consideration to be used to acquire replacement National Forest land in New Mexico; provide for the trust status of the Settlement Area Land acquired by the Pueblo; to facilitate the government-to-government relations between the United States and the Pueblo regarding the management of certain lands administered by the National Park Service and the Bureau of Land Management as described in the Settlement Agreement; and to ratify the Settlement Agreement and the Los Alamos Agreement.

Section 3 ratifies the Settlement Agreement and Los Alamos Agreement and authorizes the parties to the agreements to carry out their provisions and, by mutual agreement, to correct errors in legal descriptions and make minor modifications.

Section 4 requires the United States and the Pueblo to file a motion for entry of final judgment in the Pending Litigation in accordance with section 5 of the Settlement Agreement and provides that upon entry of such judgment, as compensation to the Pueblo the sum of $6,900,000 shall be paid into the Settlement Fund established under the Act.

Section 5(a) provides for the extinguishment, subject to exceptions described in subsection (b), of certain specified claims of the Pueblo against the United States, including claims based on aboriginal, Indian, or recognized title; claims for damages or other judicial relief or administrative remedies that were brought or were knowable and could have been brought before the date of the Settlement Agreement; claims relating to federally-administered land or land owned by, or held for the benefit of, any other Indian tribe; and any other claim that was or could have been asserted in the pending litigation in the United States Court of Federal Claims.

Section 5(b) sets forth the exceptions to the relinquishments and extinguishments of claims of subsection (a), including the Pueblo's title of record to certain lands identified in Appendix D to the Settlement Agreement, the Pueblo's title to the Pueblo de San Ildefonso Grant, the water rights of the Pueblo appurtenant to such identified lands and the Grant, and the rights of the Pueblo and its members under Federal law relating to religious or cultural access to and use of Federal land.

Section 5(c) provides that the Act does not affect any prior extinguishments of rights or claims of the Pueblo which may have occurred by operation of law.

Section 5(d) provides that nothing in the Act affects the boundaries of the Pueblo de San Ildefonso Grant and that nothing in the Act affects, ratifies, or confirms the Pueblo's right, title, or interest in land held by or for the benefit of the Pueblo, including the land described in Appendix D of the Settlement Agreement.

Section 6 establishes the "Pueblo de San Ildefonso Land Claims Settlement Fund" and sets forth 6 conditions applicable to monies deposited into the Fund relating to maintenance and investment of the fund by the Secretary of Interior; the purposes for which such monies may be used; the effect on the liability and oversight of the Secretaries of the Interior and Treasury with respect to monies withdrawn by the Pueblo from the Fund; a prohibition against per capita payments to members of the Pueblo; a requirement that the acquisition of land with funds from the Fund shall be on a willing-seller, willing-buyer basis, with no eminent domain authority; and the non-applicability of Pub. L. No. 93–134 and section 203 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4023) to the Settlement Fund.

Section 7(a) authorizes the Secretary of Agriculture to sell the Settlement Area Land, Water System Land, and Los Alamos Townsite Land on such terms and conditions as are agreed upon and described in the Settlement Agreement and the Los Alamos Agreement, including reservations for administrative and other access, and provides that consideration for any such land shall not be offset or reduced by any claim or cause of action by any party to whom the land is conveyed.

Section 7(b) provides that the consideration for the Settlement Area Land and Water System Land shall be as agreed upon in the Settlement Agreement and that for the Los Alamos Townsite Land shall be current market value based on an appraisal approved by the Forest Service.

Section 7(c) provides that the funds received by the Secretary of Agriculture from the sale of National Forest System land under the Act shall be deposited in a fund established pursuant to the Sisk Act and shall be available without further appropriation, authorization or administrative apportionment for purchase of land for National Forest System purposes,[13] and restricts the transfer, reprogramming and use of the funds for certain other purposes. This subsection also states the Pueblo must use only the funds in the Settlement Fund for acquiring lands from the Forest Service under the Act.

[13] The amendment approved by the Committee clarifies that these funds may also be used for administrative costs associated with the authorized land purchases.

Section 7(d) provides that the Settlement Area Land acquired by the Pueblo and the Water System Land and Los Alamos Townsite Land acquired by the County of Los Alamos shall be subject to valid existing rights, and describes the reservations of rights, including administrative and private rights of access, applicable to the Settlement Area Land, the Water System Land and Los Alamos Townsite Land. This section states that no water rights shall be conveyed by the United States, and provides that the Act does not affect the validity of any special use authorizations issued by the Forest Service within the Settlement Area Land except that the authorizations shall not be renewed upon expiration, and it requires the Secretary of the Interior to execute easements for private landowners upon the Pueblo's acquisition of the Settlement Area Land.

Section 7(e) provides that, subject to certain conditions and limitations, the United States shall reserve and have unrestricted rights to use, operate, maintain, and reconstruct those sections of certain Forest Development Roads referenced in the Settlement Agreement for public and administrative access and other Federal governmental purposes. This section also allows the United States to improve Forest Development Road 416v beyond its existing condition and to have unrestricted administrative access and non-motorized trail access to a portion of Forest Road 442.

Section 7(f) provides for the continued operation of the COPAR Pumice Mine under the Contract for Sale of Mineral Materials dated May 4, 1994, and for COPAR to continue using portions of certain roads for the period of the contract and thereafter for a period necessary to reclaim the site. This section also states that the Secretary of the Interior shall administer the continuing jurisdiction of the United States over the contract and, upon expiration of the contract, assume jurisdiction over reclamation, and that nothing in the Act limits or enhances the rights of COPAR under the contract.

Section 8(a) requires the Secretary of Agriculture, upon receipt of the consideration from the Pueblo for the Settlement Area Land and the Water System Land, to execute and deliver a quitclaim deed to the Pueblo for the Settlement Area Land, and to execute and deliver another such deed to the County of Los Alamos, subject to the contingent remainder in trust for the Pueblo and a right of access for the Pueblo for ceremonial and other cultural purposes, for the Water System Land. This section also requires the Secretary of Agriculture, upon receipt of the consideration from the County for all or a portion of the Los Alamos Townsite Land, to execute and deliver a quitclaim deed to all or a portion of such land, as appropriate.

Section 8(b) allows the Pueblo to quitclaim the Settlement Area Land back to the United States in trust for the Pueblo.

Section 8(c) states that no instrument other than a quitclaim deed shall be required to convey the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land under the Act.

Section 8(d) authorizes the Secretary of Agriculture to perform and approve any required cadastral survey.

Section 8(e) authorizes the Secretary of Agriculture, notwithstanding 31 U.S.C. 3302 or any other provision of law, to accept

and use contributions of cash or services from the Pueblo, other governmental entities or other persons to perform and complete required cadastral surveys of the lands as described in the Settlement Agreement or the Los Alamos Agreement and to carry out any other project or activity under the Act, the Settlement Agreement or the Los Alamos Agreement.

Section 9(a) states that without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior, on recording the quitclaim deed or deeds from the Pueblo under section 8(b) in the regional Land Titles and Records Office of the Bureau of Indian Affairs, the Settlement Area Land shall be held in trust by the United States for the benefit of the Pueblo and the Forest boundaries shall be deemed to be modified to exclude the Settlement Area Land from the National Forest System. This section also states that upon filing in the county land records of the quitclaim deed or deeds to the Water System Land, the Forest boundaries shall be deemed to be modified to exclude the Water System Land from the National Forest System.

Section 9(b) states that if fee title to the Water System Land vests in the Pueblo by conveyance or operation of law, the Water System Land shall be deemed to be held in trust by the United States for the benefit of the Pueblo without further administrative procedures or environmental or other analysis.

Section 9(c) states that any land conveyed to the Secretary of the Interior in trust for the Pueblo under the Act shall be subject to 25 U.S.C. 177 and treated as reservation land.

Section 10 sets forth requirements and limitations for the interim management of the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land prior to the conveyance of those lands under section 9 of the Act.

Section 11 withdraws the lands available for sale to the Pueblo and the Northern Tier Land, as identified in certain specified notices of withdrawal published in the Federal Register, from all location, entry, and patent under the public land, mining and mineral leasing (including geothermal leasing) laws of the United States.

Section 12(a) requires the Secretary of Agriculture to sell the Northern Tier Land, subject to valid existing rights and reservations of the United States, on such terms as the Secretary may prescribe as being in the public interest and in accordance with the provisions of this section. The section also provides that the purpose for the authorization to convey these lands is consolidation of Federal and non-Federal lands to increase management efficiency and not in settlement or compromise of any claim of title by any Pueblo, Indian tribe, or other entity.

Section 12(b)(1) provides the Pueblo of Santa Clara with an exclusive option to purchase the Northern Tier Land beginning on the enactment date and ending 90 days thereafter, sets forth the requirements for exercising the option, and states that if the Santa Clara Pueblo fails to exercise the option or close on the purchase of the land within 1 year after exercising its option, the Secretary of Agriculture must offer the Northern Tier Land for sale to the Pueblo.

Section 12(b)(2) provides the Pueblo with a 90-day option to purchase the Norther Tier Land in the event that the Pueblo of Santa Clara fails to exercise its option to purchase or close on the pur-

chase as provided in paragraph (1), and sets forth the requirements for the Pueblo to exercise its option. In the event that the Pueblo fails to exercise its option or close within 1 year after exercising its option, the Secretary of Agriculture is authorized to sell the Northern Tier lands to any third party on such terms and conditions as the Secretary determines to be in the public interest.

Section 12(b)(3) authorizes the Secretary of Agriculture to extend the 1-year period for closing the sale of the lands under certain circumstances.

Section 12(c) sets forth the terms and conditions for the sale of the Northern Tier Land. Section 12(c)(1) sets the purchase price at the amount agreed to by the Pueblo of Santa Clara in its Tribal Council Resolution No. 05–01.[14] Section 12(c)(2) reserves the right of the United States to operate, maintain, reconstruct, replace, use and have access to a certain stream gauge. Section 12(c)(3) provides that the Northern Tier Land shall be conveyed by quitclaim deed executed by the Director of Lands and Minerals, Forest Service, Southwest Region, Department of Agriculture.

Section 12(d) states that if the Northern Tier Land is purchased by an Indian tribe, the land may be reconveyed by quitclaim deed back to the United States to be held in trust by the Secretary of the Interior for the benefit of the tribe, and requires the Secretary of the Interior to accept the conveyance without additional administrative action by the Secretary of Agriculture or the Secretary of the Interior. This section also states that the land shall be deemed to be held in trust for the benefit of the tribe on recording of the deed in the regional Land Titles and Records Office of the Bureau of Indian Affairs, and that effective on the date of a deed described in paragraph (1), the Forest boundaries shall be deemed to be modified to exclude the land conveyed by the deed from the National Forest System.

Section 12(e)(1) provides for inholder and public access, by deed reservations or grants of land, across the Northern Tier Land in order to provide reasonable ingress and egress to private and Federal land as shown in Appendix B of the Settlement Agreement, in the event the Pueblo of Santa Clara does not exercise its option to purchase the land.

Section 12(e)(2) is applicable if the Pueblo of Santa Clara does exercise its option to purchase the Northern Tier Land, and requires the Pueblo of Santa Clara to grant easements to (1) the United States over certain existing roads for specified administrative access purposes, with a condition that the United States must contribute to the maintenance of the roadway commensurate with actual use; and (2) private landowners within the Northern Tier Land for private access over certain specified roads.

Section 12(e)(3) requires the Secretary of the Interior to approve the easements described in paragraph (2) upon approval of the terms of the easement by the Secretary of Agriculture, and section 12(e)(4) authorizes the Secretary of the Interior to vacate inholder access over a certain Forest Development Road if the administrative and inholder access under paragraph (2) is adequate.

Section 13 authorizes the Pueblo of Santa Clara and the Pueblo de San Ildefonso to demarcate, by agreement, a boundary between

[14] The price identified in that Tribal Council resolution is $310,000.

their respective tribal land within a certain township specified by the section, and to exchange or otherwise convey land between them in that township. Section 13 also requires the Secretary of the Interior to recognize and provide a survey for any such agreed-to boundary, approve any such agreed-upon exchanges and conveyances, and accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

Section 14 requires the Secretary of the Interior, not later than 2 years after the enactment date, to act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims.

Section 15 provides that, notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including real property conveyances under the agreements) shall be interpreted and implemented as matters of Federal law.

Section 16 states that the Act shall take effect on the date of its enactment.

Section 17 states the Congressional intent that the land conveyances and adjustments contemplated by the Act shall be completed not later than 180 days after the date of enactment of the Act.[15]

Section 18 authorizes to be appropriated such funds as are necessary to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate dated April 19, 2006, was prepared for S. 1773:

S. 1773—Pueblo de San Ildefonso Claims Settlement Act of 2005

S. 1773 would ratify a settlement agreement entered into by the Departments of Justice, the Interior, and Agriculture with the Pueblo de San Ildefonso. Under the agreement, the tribe would receive about $7 million from the federal government in exchange for extinguishing certain claims against the government. Funds from the settlement would be used by the tribe to acquire land, including about 7,600 acres of national forest land. The legislation also would allow the sales of about 425 acres of federal land to the county of Los Alamos, New Mexico, with an estimated value of about $500,000 and about 740 acres to the Pueblo of Santa Clara for about $350,000. All proceeds from the land sales would be available to the U.S. Forest Service to spend, without further appropriation, to purchase nonfederal lands within or adjacent to national forests in New Mexico.

CBO estimates that implementing S. 1773 would increase direct spending from the Judgment Fund of the U.S. Treasury by about $7 million in fiscal year 2006. That payment could be offset by a reduction in possible future payments from the Judgment Fund to settle the tribe's claims, but CBO cannot estimate the likelihood, magnitude, or timing of such an offset. According to the Forest Service, the lands to be sold currently generate no significant re-

[15] The amendment approved by the Committee excepts from this requirement the conveyances and adjustments relating to the Los Alamos Townsite Land.

ceipts and are not expected to do so during the next 10 years. Hence, CBO estimates that selling the land would not significantly affect offsetting receipts (a credit against direct spending). As noted above, the Forest Service would spend roughly $850,000 of such proceeds, so there would be no net budget impact from those sales.

The legislation also would allow the Forest Service to accept gifts of cash or services for surveys related to the land sales. CBO estimates that the total value of the gifts would not be significant. In addition, based on information from the Forest Service, we estimate that the administrative costs of implementing this legislation, including the required surveys, would be negligible.

S. 1773 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state law and require that the settlement agreement be interpreted under federal law. CBO estimates, however, that this mandate would impose no costs on any state, local, or tribal government, and so would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation). Enacting this bill would benefit the Pueblo de San Ildefonso because it is a necessary step towards implementing the settlement agreement between the Pueblo and the United States resolving the Pueblo's land claims. Any costs or duties that the bill might impose on the Pueblo would be those it has assumed voluntarily as a party to the agreement. The bill would impose no other significant costs on any state, local, or tribal government.

The legislation contains no new private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact to be incurred in carrying out the bill. The Committee believes that S. 1773 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee has received no official executive communications on S. 1773.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the enactment of H.R. 797 will result in no changes in existing law.

APPENDIX

SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES AND THE PUEBLO DE SAN ILDEFONSO

AND

LOS ALAMOS AGREEMENT BETWEEN THE COUNTY OF LOS ALAMOS, PUEBLO DE SAN ILDEFONSO, U.S.D.A. FOREST SERVICE, AND THE U.S. DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN AFFAIRS

SETTLEMENT AGREEMENT

BETWEEN THE

UNITED STATES OF AMERICA

AND

THE PUEBLO DE SAN ILDEFONSO

TO RESOLVE ALL OF THE PUEBLO'S LAND TITLE

AND

TRESPASS CLAIMS

Final: February 3, 2005

INDEX

Appendix A Stipulation for Entry of Judgment

Appendix B Tracts of Forest Service Lands Available for Conveyance identified on a map dated August 3, 2004

Appendix C Valid Existing Rights of the United States

Appendix D List of Current Pueblo Title Interests

Appendix E Pueblo Council Resolution

Appendix F Los Alamos Agreement

SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND THE
PUEBLO DE SAN ILDEFONSO
TO RESOLVE ALL OF THE PUEBLO'S LAND TITLE AND TRESPASS CLAIMS

THIS SETTLEMENT AGREEMENT ("Agreement") is made on the day and year last written below by and between the UNITED STATES OF AMERICA (hereinafter "United States") and the PUEBLO DE SAN ILDEFONSO (hereinafter "Pueblo"). The United States and the Pueblo are collectively referred to as the "Parties". The United States is represented herein by the Department of Justice for and on behalf of the Department of Agriculture (for the Forest Service), and the Department of the Interior (for the National Park Service, Bureau of Land Management, and Bureau of Indian Affairs). Justice, Agriculture and Interior are collectively referred to herein as "Executive Departments".

Subject to ratification and approval by an Act of Congress, the Pueblo and the United States hereby enter into this Agreement to finally dispose of all rights, claims or demands that the Pueblo has asserted or could have asserted against the United States with respect to any and all claims in ***Pueblo of San Ildefonso v. United States***, Docket No. 354 in the United States Court of Federal Claims, as set out in detail below.

SECTION 1. PRELIMINARY UNDERSTANDINGS.

(a) This Agreement imposes no enforceable burdens or obligations on any party hereto until it has been ratified and approved by an Act of the Congress of the United States. The

Agreement reflects the result of many years of negotiations between a Federal Negotiating Team representing the three Executive Departments and a Pueblo Negotiating Team representing the Tribal Council of the Pueblo, who have sought to resolve with finality any and all claims which the Pueblo did bring, or could have brought, in ***Pueblo of San Ildefonso v. United States***, Docket No. 354 in the United States Court of Federal Claims and related land and policy issues.

(b) Provisions for appropriated funds in section 5 of this Agreement are subject to the Congressional appropriation process and neither the schedule set forth in that section nor the request referenced in section 7(b) binds the prerogatives of the President with respect to veto under Article II of the Constitution or the prerogatives of the Congress of the United States. Accordingly, the availability of those appropriated funds needed to effectuate this settlement cannot be guaranteed.

(c) Nothing in this Agreement shall constitute or be construed as precedent or be used in any way as an admission of liability by the United States in any other proceeding, except as may be necessary to insure compliance with its terms. However, either party may use this Agreement to document the fact that all of the Pueblo's claims were disposed of pursuant to the terms and conditions incorporated herein.

SECTION 2. DEFINITIONS.

(a) "County" means the Incorporated County of Los Alamos, New Mexico.

(b) "Federally-administered lands" means lands, waters, or interests therein, administered by federal agencies, except for that which is held by the United States in trust for

the benefit of Indian tribes or individual Indians.

(c) "Los Alamos Agreement" means the agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Department of the Interior Bureau of Indian Affairs dated January 22, 2004, and appended as Appendix F.

(d) "National Forest System" means the term as defined at 16 U.S.C. §1609(a).

(e) "National Park System" means the term as defined at 16 U.S.C. §1c(a).

(f) "Northern Tier Lands" means those lands identified as such on Appendix B.

(g) "Parties" means the Pueblo and the United States through the Departments of Justice, Agriculture, and the Interior.

(h) "Public lands" shall have the same meaning as provided in § 103 of the Federal Land Policy and Management Act, 43 U.S.C. §1702(e).

(i) "Pueblo" means the Pueblo de San Ildefonso, also known by and referred to as the Pueblo of San Ildefonso.

(j) "Settlement Area Lands" means those National Forest System lands within the Santa Fe National Forest referenced on Appendix B, but not including the Northern Tier Lands.

(k) "Water System Lands"means those Federally owned lands within the Santa Fe National Forest which will be conveyed to the County pursuant to the Los Alamos Agreement, and identified as such on Appendix B.

SECTION 3. PURPOSE.

(a) The purpose of this Agreement is to settle fairly, with finality and certainty, the

claims as provided in section 11 of this Agreement.

(b) Notwithstanding the foregoing, this Agreement is not intended to and shall not effectuate an extinguishment of or otherwise impair the Pueblo's title to or interest in lands or water rights as described in section 11(b)(1) of this Agreement.

(c) Incorporated by reference in this Agreement is the Los Alamos Agreement constituting a side agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Department of the Interior Bureau of Indian Affairs and dated January 22, 2004. References herein to the Los Alamos Agreement shall not be construed to make the County a party to this Settlement Agreement or third party beneficiary thereunder. Furthermore, it is not the intent of the Parties that ratifying legislation shall confer such status on the County.

SECTION 4. AMENDMENT; OPTION TO WITHDRAW.

(a)(1) The Parties to this Agreement may mutually amend this Agreement at any time prior to enactment of legislation ratifying and approving this Agreement.

(2) The Parties may mutually amend this Agreement after the enactment of the ratifying legislation for purposes of making technical corrections only. A technical correction is a change to correct typographical errors, mistakes in land descriptions, or other minor corrections that do not alter the bargain between the Parties or the basic terms of the Agreement.

(b)(1) Prior to enactment of the ratifying legislation, either party may at any time withdraw from this Agreement upon written notice to the other party.

(2) Unless superseded by ratifying legislation or withdrawal of any party as provided

in subsection 4(b)(1), this Agreement shall be effective until November 15, 2006, or the termination of the 109th Congress, whichever is later, provided that the Parties may extend the effective date by mutual agreement.

(c)(1) Exercise by the Pueblo of the option to withdraw pursuant to subsection 4(b)(1) will require a resolution of the Tribal Council. Notice of the exercise must be delivered to the Assistant Attorney General, Environment and Natural Resources Division, or to another official authorized to act on his or her behalf.

(2) Exercise by the federal agencies of the option to withdraw pursuant to subsection 4(b)(1) will require a notice letter signed by the Assistant Attorney General, Environment and Natural Resources Division, or by another official authorized to act on his or her behalf. Notice of the exercise must be delivered to the Governor of the Pueblo or to another official authorized to act on his behalf.

SECTION 5. MONETARY BENEFITS TO THE PUEBLO.

(a) After enactment of the ratifying legislation, the Parties will execute and file a Motion for Entry of Final Judgment, attached hereto as Appendix A, in ***Pueblo of San Ildefonso v. United States,*** Docket No. 354 in the United States Court of Federal Claims which shall provide for an award, as specified in subsection 5(c), to the Pueblo in settlement of all claims that were or could have been asserted against the United States in Docket 354, of Six Million, Nine Hundred Thousand Dollars ($6,900,000) pursuant to § 22 of the Act of August 13, 1946, (c. 959, 60 Stat. 1049, 1055), and the Act of October 8, 1976, (90 Stat. 1990). This award is to

compensate the Pueblo for all monetary damages and attorney fees, interest, and any other fees and costs of any kind which were or could have been presented in connection with Docket No. 354. No additional, supplemental, or ancillary agreement exists outside of this document and attachments thereto as to the final disposition of claims which were brought or could have been brought by the Pueblo against the United States in Docket No. 354.

(b) The ratifying legislation shall authorize the establishment of a Pueblo de San Ildefonso Land Claims Settlement Fund ("Settlement Fund") to enable the Pueblo to pay for the Settlement Area Lands, the Water System Lands pursuant to the Los Alamos Agreement, and other lands. The Parties agree that the acquisition of lands with these funds shall be on a willing seller basis and that ratifying legislation shall prohibit the exercise of any eminent domain authority for purposes of acquiring lands for the benefit of the Pueblo pursuant to this Agreement. Funds deposited in the Settlement Fund pursuant to subsection (c) of this section shall be maintained and invested by the Secretary of the Interior pursuant to 25 U.S.C. §162a. The ratifying legislation will provide that the provisions of Public Law 93-134 governing the distribution of Indian claims judgment funds, and the plan approval requirements of § 203 of Public Law 103-412 shall not be applicable to these funds. If the Pueblo withdraws money from the Settlement Fund and uses it or deposits it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary of the Interior nor the Secretary of the Treasury shall thereafter retain any oversight over, or liability for, the accounting, disbursement, or investment of the funds.

(c) Funds necessary to pay the award referenced in subsection 5(a) will be disbursed

from the Permanent and Indefinite Appropriation for Judgments pursuant to 31 U.S.C. § 1304 after final judgment has been entered by the U.S. Court of Federal Claims.

SECTION 6. DISTRIBUTION OF FUNDS PLAN IN *PUEBLO OF SAN ILDEFONSO v. UNITED STATES*, U.S. COURT OF FEDERAL CLAIMS DOCKET NO. 660-87L.

The ratifying legislation shall provide that the Secretary of the Interior shall have two years from the date of enactment of the legislation ratifying this Agreement to satisfy the requirements of the Distribution of Funds Act, 25 U.S.C. §1401, with respect to the award entered in 1991 in compromise and settlement of claims presented in ***Pueblo of San Ildefonso v. United States***, No.660-87L.

SECTION 7. RECOGNITION OF PUEBLO CONSULTATION IN MANAGEMENT AND ADMINISTRATION OF CERTAIN NATIONAL PARK SERVICE LANDS.

(a) The National Park Service and the Pueblo shall enter into a memorandum of understanding acknowledging the important and continuing role of the Tsankaw'i Unit of Bandelier National Monument in the on-going cultural practices of the Pueblo, consistent with existing laws.

(b) Subject to the availability of appropriated funds, the National Park Service shall submit a request to the Office of Management and Budget ("OMB") to seek an increase in park base funding to support training and technical assistance to members of the Pueblo on the interpretation, management, protection, and preservation of the natural and cultural resources of

the Tsankaw'i Unit consistent with the memorandum of understanding entered into pursuant to subsection (a) above. As recognized in subsection 1(b), commitments to request funding remain subject to the processes of the legislative and executive branches. The failure of OMB or Congress to act on budget requests shall not affect this Agreement or the rights of the Parties thereunder.

SECTION 8. PROVIDING FOR ENHANCED INVOLVEMENT BY THE PUEBLO IN MANAGEMENT OF LANDS ADMINISTERED BY THE UNITED STATES BUREAU OF LAND MANAGEMENT SOUTH OF THE PUEBLO DE SAN ILDEFONSO GRANT.

The Bureau of Land Management and the Pueblo shall enter into a memorandum of understanding acknowledging and recognizing the Pueblo's long-standing and deep ancestral ties to land located south of the Pueblo de San Ildefonso Grant known as the "Shu-ma Land Area."

SECTION 9. AVAILABILITY OF NATIONAL FOREST SERVICE SYSTEM LANDS FOR SALE TO THE PUEBLO.

(a)(1) After the date of the ratifying legislation and in compliance with subsection 5(a), the Pueblo shall have for a period of three years beginning on the date of enactment of ratifying legislation the exclusive right to acquire in trust the tract of National Forest System lands, referred to as Settlement Area Lands, as described on the map attached as Appendix B to this Agreement.

(2) The time frames outlined in this subsection are predicated on Congress obviating various administrative substantive and procedural requirements as provided in Subsection

9(b)(9) and, if legislation to that effect is not forthcoming, the right to acquire shall be 5 years from the date of completion of the necessary surveys, consultations, and analyses. The costs associated with meeting these substantive and procedural requirements shall be borne by the Pueblo payable from the Settlement Fund or other sources available to the Pueblo.

(b) The acquisition of Settlement Area Lands by the Pueblo is subject to the following requirements:

(1) GLOBAL SETTLEMENT. Any sale of the Settlement Area Lands can only be done as a part of a global settlement embodied in ratifying legislation;

(2) DEPOSIT AND USE OF PROCEEDS FROM SALE. The ratifying legislation shall provide that proceeds from any sale of the Settlement Area Lands (including the Water System Lands), and the Northern Tier Lands shall be deposited by the Secretary of Agriculture into the fund established in the Treasury of the United States pursuant to the Act of December 4, 1967 (16 U.S.C. §484a, as amended, also referred to as the "Sisk Act") and made available, without further appropriation, for the purchase of lands for National Forest System purposes within the State of New Mexico;

(3) MARKET VALUE. The Settlement Area Lands shall be sold to the Pueblo for $3,100,000, which price shall remain valid until August 1, 2005, and shall thereafter be increased quarterly at the rate of 3% per annum.

(4) LIMITATION ON PURCHASE. The Pueblo can only use funds placed into the Pueblo de San Ildefonso Land Claims Settlement Fund ($6,900,000) for acquisition of the National Forest System land designated in subsection 9(a)(1) and for the purchase by the County

of the Water System Lands, and any funds not used to purchase National Forest lands shall remain available for Pueblo use for other purposes;

(5) VALID EXISTING RIGHTS. Lands conveyed to the Pueblo shall be subject to all valid existing rights, special use permits, easements, and other conditions which are generally set forth in Appendix C. It is understood that the National Forest System lands that are available for sale to the Pueblo as designated in Subsection 9(a)(1) provide access for various private properties, and it is agreed that the access rights of such entities and individuals shall be preserved.

(6) IMPORTANCE OF SALES TO A GLOBAL SETTLEMENT. The availability for sale of National Forest System lands to the Pueblo is necessary to achieve settlement of the ***San Ildefonso Pueblo v. United States***, U.S. Court of Federal Claims Docket No. 354, an action brought before the Indian Claims Commission pursuant to the Indian Claims Commission Act;

(7) FOREST DEVELOPMENT ROADS. Subject to the Pueblo's rights to use, cross and recross road rights of way, the United States shall reserve and have free and unrestricted rights to use, operate, maintain, and reconstruct (at the same level of development as exists as of the date of this Settlement Agreement), those sections referenced in Appendix B of Forest Development Roads 57, 442, 416, and 416v, for any and all public and administrative access and other Federal governmental purposes, including those by Federal employees, their agents, contractors and assigns, (including those holding Forest Service permits). Notwithstanding the foregoing, the United States may improve Forest Development Road 416v beyond its existing condition to a high clearance standard road (level 2), and shall have unrestricted administrative

access and non-motorized public trail access on that portion of Forest Development Road 442 as depicted on Appendix B.

(8) PRIVATE MINING OPERATIONS. The United States and the Pueblo shall allow the COPAR Pumice Mine to continue to operate as provided in the Contract for the Sale of Mineral Materials dated May 4, 1994 and for COPAR to use portions of Forest Development Roads 57, 442, 416, and other designated roads within the area described in the contract, for the period of the contract and thereafter for a period necessary to reclaim the site. After enactment of ratifying legislation, continuing jurisdiction of the United States over the Contract for the Sale of Mineral Materials shall be administered by the Secretary of the Interior. Upon expiration of the said contract, jurisdiction over reclamation shall be assumed by the Secretary of the Interior. Nothing in this Agreement shall be construed to limit or enhance the rights of COPAR under the Contract for the Sale of Mineral Materials dated May 4, 1994.

(9) ANALYSES NOT REQUIRED. The ratifying legislation shall provide that the conveyance of lands to the Pueblo and the conveyance or reservation of easements shall not be subject to administrative appeals, surveys (except for surveys provided in subsection 9(b)(10)), consultations, analysis or any other consideration of the condition of the lands including issues pertaining to hazardous materials or contaminants, wetlands, flood plains, threatened or endangered species, caves, bats, or archaeological or cultural resources by any federal department or agency prior to or after conveyance.

(10) SURVEY. Subject to the availability of funds provided by the Pueblo, the Secretary of the Interior, or both, the Secretary of Agriculture shall survey new boundaries that

result from land conveyances to the Pueblo of National Forest System lands and such survey shall be completed to Federal standards within one year of the date of receipt of funding.

(11) FENCING. Any fencing of new boundaries necessitated by the conveyance of land, or interior fencing to control public travel or other road uses, will be the responsibility of the Secretary of the Interior.

(c) Consideration for the conveyance to the Pueblo of the lands designated in subsection 9(a)(1) above and for purchase of the Water System Lands shall be payable by the Pueblo to the Secretary of Agriculture on behalf of the United States from the Land Claims Settlement Fund (not to exceed $6,900,000) created pursuant to section 5.

(d) The ratifying legislation will provide that, upon acquisition by the Pueblo of the Settlement Area Lands, the Pueblo will immediately reconvey the Settlement Area Lands, by quitclaim deed or deeds back to the United States, to be held in trust by the Secretary of the Interior for the benefit of the Pueblo. The ratifying legislation will also provide that, without any additional administrative action by the Secretary of the Interior or Secretary of Agriculture, upon recordation by the Secretary of the Interior in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, of the such quitclaim deed or deeds, the Settlement Area Lands shall be deemed to be held in trust by the United States for the benefit of the Pueblo, and the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the lands so conveyed.

(e) The ratifying legislation will provide that the Secretary of Agriculture may sell the Northern Tier Lands, subject to valid existing rights, including reservations in the United States

and provisions for private and other access to National Forest System lands as shown on Appendix B.

(f) In the event that the Northern Tier Land is acquired by any Indian pueblo or Indian tribe, the pueblo or tribe may reconvey the Northern Tier Lands, by quitclaim deed or deeds back to the United States, to be held in trust by the Secretary of the Interior for the benefit of such pueblo or tribe. The legislation will provide that, without any additional administrative action by the Secretary of the Interior or Secretary of Agriculture, upon recordation by the Secretary of the Interior in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, of the such quitclaim deed or deeds, the Northern Tier Lands shall be deemed to be held in trust by the United States for the benefit of such pueblo or tribe, and the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the lands so conveyed.

SECTION 10. WITHDRAWAL OF FEDERAL LANDS AND INTERIM MANAGEMENT.

(a) The ratifying legislation will withdraw the lands which are available for sale to the Pueblo, as well as the Northern Tier Lands, from any location and entry under the public land laws and the mining and mineral leasing laws of the United States, including geothermal leasing laws. Such withdrawal shall be those lands referenced in the Notices of Withdrawal of lands in New Mexico published in the Federal Register February 15, 2002, (67 F.R. 7193), and on December 31, 2003 (68 F.R. 75628).

(b) Subject to valid existing rights, the Secretary of Agriculture shall manage lands

proposed for conveyance to the Pueblo in such a manner as not to substantially reduce the market value of the land.

SECTION 11. COMPROMISE, RESOLUTION AND EXTINGUISHMENT OF SAN ILDEFONSO CLAIMS.

(a) Except as provided in subsection (b), in consideration for the benefits of this Agreement and for other valuable consideration, the Pueblo agrees that all of the Pueblo's claims against the United States, its agencies, officers, and instrumentalities are relinquished and extinguished including:

(1) All claims to land, based on aboriginal title, Indian title, or recognized title;

(2) All claims for damages or other judicial relief or for administrative remedies which were brought, or which were knowable and could have been brought, as of the date of this Agreement;

(3) Any claim related to:

(A) any federally administered land, including, but not limited to, the National Park System lands, National Forest System lands, Public Lands administered by the Bureau of Land Management, Settlement Area Lands, Water System Lands, and the Los Alamos Townsite Lands;

(B) any land owned by, or held for the benefit of, any Indian tribe other than the Pueblo; and,

(C) all claims which were, or could have been, asserted in DocketNo. 354 of the United States Court of Federal Claims.

(b)(1) Nothing in this Agreement, including subsections (a) and (c) of this section, is intended to or shall in any way effectuate an extinguishment of, or otherwise impair: (i) the Pueblo's title to land held by or for the benefit of the Pueblo as identified in Appendix D; (ii) the Pueblo's title to the Pueblo de San Ildefonso Grant including title which the United States District Court for the District of New Mexico found in *United States v. Apodoca* (No. 2031, equity: December 5, 1930) found not to have been extinguished or which has been reacquired by the Pueblo pursuant to the replacement purposes of the 1924 Pueblo Lands Act, all as identified in Appendix D; or (iii) the Pueblo's water rights appurtenant to the land described in clauses (i) and (ii) of this paragraph;

(2) Nothing in this Agreement is intended to expand, reduce, or otherwise impair any rights which the Pueblo or its members may have under existing federal statutes concerning religious and cultural access to and uses of federal administered lands.

(3) Nothing in this Agreement shall affect the location of the boundaries of the Pueblo de San Ildefonso Grant.

(c) In further consideration for the benefits of this Agreement, and other valuable consideration, the Pueblo agrees, subject to the provisions of subsection (b), with respect to claims against persons, the State of New Mexico and its subdivisions, and Indian tribes other than the Pueblo, to the relinquishment and extinguishment of all claims to land, whether based on aboriginal title, Indian title, or recognized title within the Pueblo's aboriginal title area, and of all claims for damages or other judicial relief or for administrative remedies pertaining in any way to title to such lands, such as boundary and trespass claims.

(d) The provisions of this section shall not become effective or binding upon the Pueblo until (1) the approval of this Agreement by an Act of Congress and (2) the entry of final judgment in ***Pueblo of San Ildefonso v. United States,*** Indian Claims Commission Docket No. 354 in the U.S. Court of Federal Claims; and those provisions shall only apply to claims existing on the date of this Agreement.

SECTION 12. JURISDICTION AND LAND STATUS.

The ratifying legislation shall provide that any land conveyed to the Pueblo in accordance with the terms of section 9 of this Agreement or any lands within the Pueblo Grant acquired with the Settlement Fund shall be subject to the provisions of the Non-Intercourse Act, 25 U.S.C.A. §177. Such lands shall be treated as reservation lands of the Pueblo and the Parties agree that ratifying legislation shall declare the lands to be held by the United States in trust for the benefit of the Pueblo.

SECTION 13. SIDE AGREEMENTS AND THIRD PARTIES.

(a) NO CONTINGENCIES. The obligations of the Pueblo and the United States under this Settlement Agreement are not contingent upon any other agreement.

(b) LOS ALAMOS AGREEMENT. In the event of a breach of the Los Alamos Agreement by any party thereto, the rights and obligations under this Settlement Agreement shall be unaffected.

(c) NO THIRD PARTY BENEFICIARIES. No third party beneficiaries are intended to

be created under this Settlement Agreement.

NOW THEREFORE, the undersigned, being duly authorized, approve and enter into this Settlement Agreement between the United States (as represented by the Departments of the Interior, Agriculture, and Justice) and the Pueblo (as represented by the Governor) to resolve the Pueblo's land title and trespass claims:

Pueblo de San Ildefonso

Dale Martinez
Governor

06/01/05
Date

United States Department of the Interior

James E. Cason
Associate Deputy Secretary

5/27/05
Date

United States Department of Agriculture

Mark Rey
Under Secretary for Natural Resources
and Environment

6/3/05
Date

United States Department of Justice

Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

6/6/05
Date

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

PUEBLO OF SAN ILDEFONSO, Plaintiff, v. THE UNITED STATES OF AMERICA, Defendant.	)	Docket No. 354 Judge Bohdan A. Futey

STIPULATION FOR ENTRY OF JUDGMENT

WHEREAS, plaintiff Pueblo of San Ildefonso ("Pueblo") has asserted herein claims against defendant United States of America under the Indian Claims Commission Act of 1946, 25 U.S.C. § 70a;

WHEREAS, the Congress has passed and the President has signed the San Ildefonso Claims Settlement Act of 200__, Public Law 109–_____, ratifying the Settlement Agreement of _____ __, 2004,;

WHEREAS, in the Settlement Agreement of _____ __, 2004, the parties have agreed to resolve all claims that were or could have been asserted herein by way of settlement and compromise;

WHEREAS, the Pueblo has adopted a tribal resolution (attachment "A") which in part approves the sum of $6,900,000 in full and final settlement of the claims asserted herein;

IT IS STIPULATED AND AGREED by and between the parties through their respective attorneys of record as follows:

1. That upon approval of the Court, final judgment may be entered in

Docket No. 354 in the amount of $6,900,000 in favor of the Pueblo and against the United States of America;

2. Entry of final judgment as set forth in ¶ 1 shall finally dispose of all claims or demands, which the Pueblo has asserted or could have asserted against defendant in its petition filed on , its amended and supplemental petition filed on , and in its pretrial submissions filed herein. The Pueblo shall be barred thereby from asserting any such rights, claims or demands against the United States in any future action. Such claims and demands include any liability of the United States arising from the Pueblo's causes of action that were or could have been alleged in Docket 354 involving the Pueblo's water rights;

3. Should any court or tribunal of competent jurisdiction determine that the Pueblo has been deprived of its water rights by actions of persons or entities other than agents or instrumentalities of the United States, that shall in no way alter or affect the provisions of this stipulation and entry of judgment pursuant hereto.

4. Entry of final judgment as set forth in ¶ 1 of this stipulation is a result of compromise and settlement and shall not constitute or be construed as an admission, or be utilized or admissible as precedent, evidence or argument in any manner in any other proceeding, except as may be necessary to ensure compliance with its terms. The United States or the Pueblo may utilize this Stipulation to document the fact that the Pueblo's claims were disposed of pursuant to the terms incorporated herein;

5. Entry of judgment of the Pueblo claims is inclusive of attorney fees and other costs, and fully settles all claims that the Pueblo has or may have against the United States with regard to damages, attorney fees, interest, and any other fees of any

kind;

6. No review or appeal of the stipulated judgment shall be sought or taken by any party;

7. The United States waives any claims for gratuitous off-sets as an set-off against the claims in Docket No. 354, but expressly reserves all offset claims for use in any other present or future litigation.

Respectfully submitted,

Dated:_____

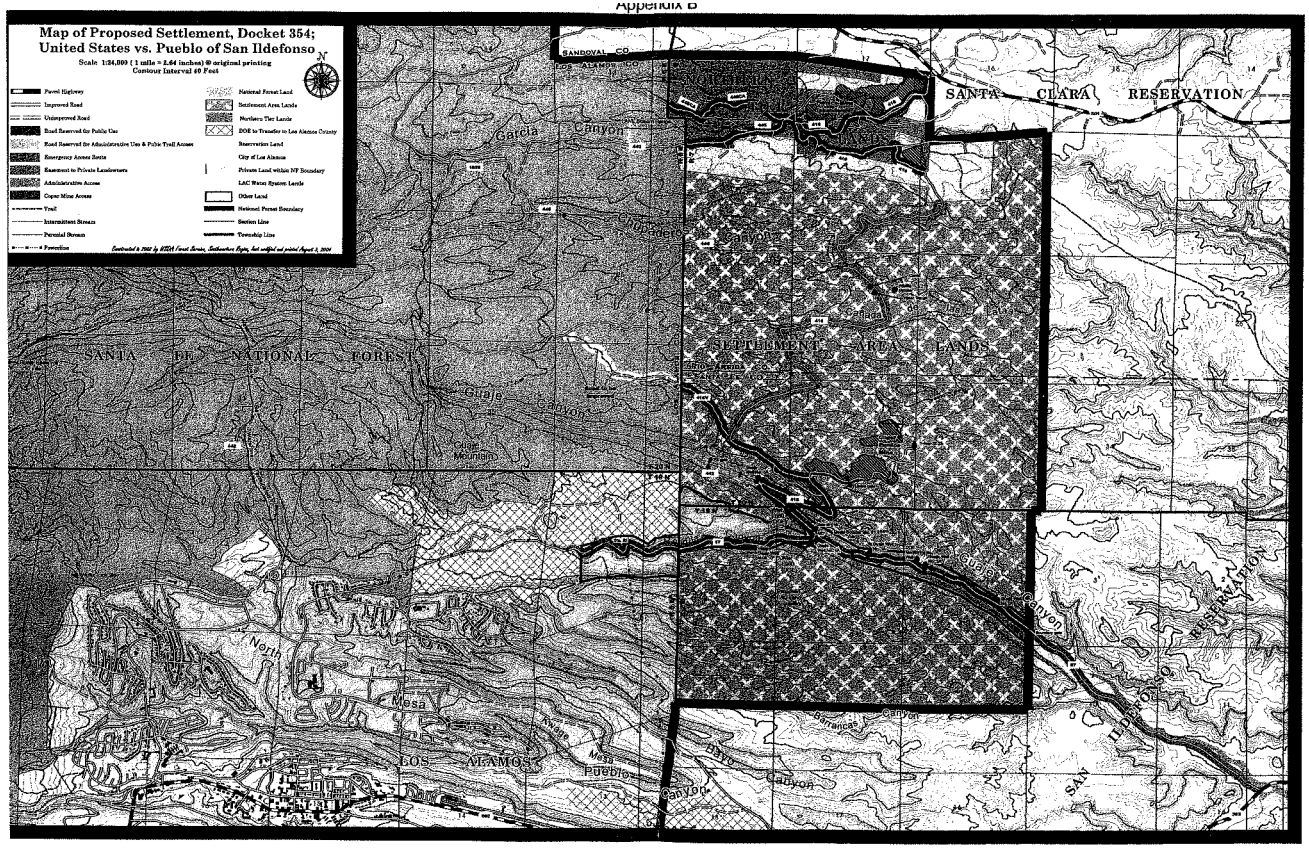
_____

PETER C. CHESTNUT
121 Tijeras, N.E.
Suite 2001
Albuquerque, NM 87102
(505) 842-5864
Attorney for Plaintiff

Dated: _____

_____

DANIEL G. STEELE
U.S. Department of Justice
P.O. Box 663
Washington, D. C. 20044-0663
(202)305-0484
Attorney for Defendant


Map of Proposed Settlement, Docket 354;
United States vs. Pueblo of San Ildefonso
Scale 1:24,000 (1 mile = 2.64 inches) @ original printing
Contour Interval 40 Feet
N
Paved Highway
Improved Road
Unimproved Road
Road Reserved for Public Use
Road Reserved for Administrative Use & Public Trail Access
Emergency Access Route
Easement to Private Landowners
Administrative Access
Caper Mine Access
Trail
Intermittent Stream
Perennial Stream
Powerline
National Forest Land
Settlement Area Lands
Northern Tier Lands
DOE to Transfer to Los Alamos County
Reservation Land
City of Los Alamos
Private Land within NF Boundary
LAC Water System Lands
Other Land
National Forest Boundary
Section Line
Township Line
Contoured in 1992 by USDA Forest Service, Southwestern Region, but unedited and printed August 1, 2001
SANDOVAL CO
LOS ALAMOS CO
SANTA CLARA RESERVATION
SETTLEMENT AREA LANDS
SANTA FE NATIONAL FOREST
Garcia Canyon
Pueblo Canyon
Cerro Grande
North Mesa
Mesa
LOS ALAMOS
Pueblo
Canyon
Barrancas
Cerro Canyon
SAN ILDEFONSO RESERVATION

Appendix C – Valid Existing Rights and Reservations

On the Settlement Area Lands concerning

the San Ildefonso Pueblo Settlement Agreement[1]

Prepared June 3, 2004

I. Transportation System reservations within the settlement area lands:

A. Forest System Roads and Trails:

1. Forest Development Road No. 57 (red line on Appendix B):
   a. Reserved to the United States: exclusive & unrestricted access.

2. Forest Development Road No. 442 (red line on Appendix B):
   a. Reserved to the United States: exclusive & unrestricted access.

3. Forest Development Road No. 442 (pink line on Appendix B):
   a. Reserved to the United States: access for Administrative use.
   b. Reserved to the United States: access for non-motorized public trail access.

4. Forest Development Road No. 416v (red line on Appendix B):
   a. Reserved to the United States: exclusive & unrestricted access.

5. Forest Development Road No. 416 (red line on Appendix B):
   a. Reserved to the United States: exclusive & unrestricted access.

6. Forest Development Road No. 416 (blue line on Appendix B):
   a. An easement in favor of the private landowners, assigns and guests.

7. Forest Development Road No. 416 (orange line on Appendix B):
   a. Reserved to the United States: access for Administrative use and assigns for forest health and wildland fire use only.

8. Forest Development Road No. 445ca (orange line on Appendix B):
   a. Reserved to the United States: access for Administrative use and assigns for forest health and wildland fire use only.

9. Forest Development Road No. 445 (blue line on Appendix B):
   a. An easement in favor of the private landowners, assigns and guests.

II. Other Federal reservations within the settlement area lands:

A. Department of Energy: an easement for a stream gauge and road access, located within the upper portion of Garcia Canyon, adjacent to Forest Development Road No. 445.

III. Other Rights within the settlement area lands:

A. A Contract for Sale of mineral materials dated May 4, 1995 to COPAR authorizing the extraction of mineral materials from the COPAR Mine, and the use of Forest Development Roads 416F, 416, 442, 57 (purple line on Appendix B) and any and all roads of use approved under the existing contract.

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[1] Appendix B, a map entitled "Map of Proposed Settlement, Docket 354, United States vs. Pueblo of San Ildefonso" is referred to throughout this document and is a necessary reference to interpret Appendix C.

B. Outstanding mineral rights as described in a Warranty Deed, dated March 2, 1964, between Thomas G. Cornish, et. al. (grantor) and USA (grantee).

C. Existing road easements or reservations in favor of the USA for Forest Development Roads No. 445 & 416.

IV. Other Uses researched within the settlement area lands:

A. The record search for mineral leases and mining claims on the reserved public domain portion of the settlement area has been completed and no active claims or leases were found.

B. There are no active grazing permits or special use permits within the proposed settlement area.

C. There are no water rights of record that will be conveyed to the Pueblo.

V. Other Issues:

A. This Appendix is intended to be a comprehensive list however; it **may not** include all valid existing rights that may be present on the land within the proposed settlement area. Any valid existing rights not listed would still need to be honored by the Pueblo.

B. A Special Order, signed by the Forest Supervisor, closing this area to public entry would need to be amended to exclude the Settlement Area at the time of conveyance.

PUEBLO DE SAN ILDEFONSO v. UNITED STATES
Docket No. 354

APPENDIX D
List of Current Land Title Interests
Held by or for the Pueblo de San Ildefonso

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APPENDIX D

Land held by or for the benefit of the Pueblo of San Ildefonso, as recorded by the Secretary of the Interior in the Lands Titles and Records Office, Southwest Region, BIA, Albuquerque, New Mexico.

1. Pueblo Grant:

15,413.402 acres (After subtracting school site and private claims as of 1979, per Bureau of Indian Affairs). The gross area of the land grant is 16,199.61 acres per the Bureau of Indian Affairs. Grant confirmed by Congress, 11 Stat. 374, (December 22, 1858), Patented November 1, 1864), with a stated area of 17,292.64 acres.

2. 1929 Reservation:

4,430.72 acres containing no private claims. The reservation is located adjoining the west side of the grant (T19N,R7E "a narrow strip, a little more than one and one-half miles wide and four miles long, running north and south, lying between the western boundary of the San Ildefonso Pueblo grant on the east and the eastern boundary of a portion of the Santa Fe National Forest on the west..."). It was set aside by the Congressional Act of February 11, 1929. (45 Stat. 1161).

3. 1924 Pueblo Lands Act and 1933 Amendment:

Lands Acquired Pursuant to the Pueblo Lands Acts of 1924 and 1933 are listed below. Where there was a land exchange, the net acreage is shown.

0.089 acre - The Pueblo purchased from Noverta C. Apodaca, et al., November 16, 1938, private claim 74, parcel 1 (.076acre) and private claim 140, parcel 1 (.013)

-0.115 acres - Abigail & Maximo Casados. Pueblo exchanged on March 22, 1937 a portion of private claim 45, parcel 1 (.169 acre) for private claims 110, parcels 2 and 3 (combined acreage of .054), for net decreased acreage of .115 acres

1.309 acres - Juan Duran & Catalina Duran, et al., Pueblo exchanged on October 30, 1936, private claim 51, parcel 2 (2.756 acres) for private claim 51, parcel 3, private claim 114, parcels 3 and 5 (combined acreage of 4.065 acres), for net increased acreage of 1.314 acres.

-2.411 acres - Ramon de Duran & Estefana Q de Duran. Pueblo exchanged on March 15, 1937 part of private claim 130, parcel 5 (2.43 acres) for private claim 110, parcel 4 (.019 acre) for net decreased acreage of 2.41 acres

1.525 acres - The Pueblo purchased from Antonio D. de Gomez and Carmelita R. de Gomez, April 8, 1937, private claim 18 parcel 1 "A".

8.345 acres - The Pueblo purchased from Antonio S. de Gomez and Francisquita de Gomez, April 7, 1936, private claim 38 parcel 4.

12.286 acres - The Pueblo purchased from Benito Gonzales and Eduvigen Gonzales, December 15, 1936, private claim 33 parcel 4, containing 0.666 of an acre; portion of private claim 45 parcel 1 containing 0.045 of an acre; private claim 116 parcel 1 containing 0.658 of an acre; and private claim 141 parcel 4 containing 9.047 of an acre. (With metes and bounds adding .97 acre)

0. 020 acre - Elfego Gonzales and Juana L. Gonzales. The Pueblo exchanged on August 22, 1937, private claim 137, parcel 1 (.031 acre) for private claim 57, parcel 2 and part of private claim 144, parcel 1 (.051 acre combined) with a net increase of .020 acre

20.236 acres - The Pueblo purchased from Josefa L. Gonzales, et. al. August 17, 1938, private claim 48 parcels 1, 2, 3; portion of private claim 48 parcel 4, parcels 5, 6, 7 8, and 9; portion of private claim 106 parcel 1 containing a total of 20.25 of an acre.

9.089 acres - The Pueblo purchased fromPedro de Gonzales and Josefina de Gonzales . April 7, 1936, private claim 117 parcel 3.

3.431 acres - The Pueblo purchased from Zenaida Gonzales, April 7, 1936, private claim 116, parcel 6 [5].

9.013 acres - The Pueblo purchased from Antonio Herrera and Sara S. Herrera, May 5, 1937, a portion of private claim 57 parcel 4, excepting portion sold to Adolpho and Esquipula Montoya in 1934; private claim 57 parcel 5 and private claim 58 parcel 3.

0.224 acre - The Pueblo purchased from Maximo Herrera on March 15, 1940 private claim 133, parcels 1 and 2 and private claim 134, parcel 1 (.224 acre combined).

33.473 acres - The Pueblo purchased from Manuel Lujan, et al., April 7, 1936, private claim 32, parcels 4, 5, 6 and 7; private claim 87, parcels 1, 2, 3, 4, and 5; private claim 113 parcels 2, 3, 4, 5, 6, and 7 (totaling 33.473 acres on Warranty Deed).

28.103 acres - The Pueblo purchased from Martin Lujan, November 23, 1936, a portion of private claim 45 parcels 1,2,3,4,5,6,7,8,9,10,11, 12, and 13, with combined acreage of 29.771 acres.

8.740 acres - The Pueblo purchased from Leandro Martinez, et al., February 18, 1937, private claim 146 parcel 1.

0.493 acres - The Pueblo purchased from Maria Martinez, et al., December 19, 1938, private claim 57 parcel 1 containing 0.027 of an acre; private claim 58 parcel 1 containing 0.022 of an acre and private claim 86 parcel 2 containing 0.444 of an acre. [Per title opinion and offer to sell lands].

11.070 acres - The Pueblo purchased from Juan N. Medina and Elena S. de Medina, April 7, 1936, private claim 56 parcels 1 (.561 acre), 3 (1.611 acres), 4(5.054 acres), and 5 (3.844 acres).

4.287 acres - The Pueblo purchased from Adolpho Montoya and Mrs. E.R. Montoya, February 11, 1938, private claim 24 parcel 4 (3.391 acres) and a portion of private claim 57 parcel 4 (0.896 of an acre).

21.616 acres - The Pueblo purchased from Jose Elfego Montoya and Tibursia S. Montoya, et al., February 9, 1937, part of private claim 105 parcel 4 (28.333 acres excepting 6.717 acres) Per Warranty Deed.

5.170 acres - The Pueblo purchased from J.C. Montoya and Josefina L. de Montoya. March 6, 1939 (corrected deed October 27, 1944) S. half of private claim 80 parcel 2.

1.500 acres - The Pueblo purchased from Lucia H. Montoya et. al, February 9, 1937, private claim 107 parcel 1.

0.696 acre - The Pueblo purchased from Tom C. Roches and Rita V. Roches, February 7, 1938, private claim 51 parcel 4 (see Sixto Duran exchange December 1940; deeded to non-Indian by Pueblo).

20.711 acres - The Pueblo purchased from Francisquita D. de Romero, et. al. July 22, 1939, private claim 49, parcels 2 (.664 acre), 3(.099 acre), 4 (5.926 acres), 5 (4.264 acres), and 6 (9.075 acres); private claim 134, parcel 2 (.625 acre) and private claim 135 parcel 1(.057 acre).

4.048 acres - The Pueblo purchased from Celestino Roybal, et. al., February 23,1938, private claim 64, parcel 2(1.627 acres) and private claim 141, parcel 3 (2.421 acres).

16.792 acres - The Pueblo purchased from Celestino Roybal and wife, April 22, 1938, private claim 57 parcel 3 (4.133 acres), private claim 109 parcel 1(10.421 acres) and private claim 135 parcel 2 (2.238 acres).

3.761 acres - The Pueblo purchased from Miguel Roybal, et al., June 18, 1938, private claim 71 parcels 2(.913 acre), 3(.953 acre) , 4(1.461 acres) , and 5 (.434 acre).

0.035 acre - The Pueblo purchased from Apolinar Trujillo, et al., April 16, 1938 private claim 129 parcel 2.

8.479 acres - The Pueblo purchased from Apolinar Trujillo, et al. February 3,1938, private claim 114, parcels 1(6.053 acres) and 2(1.572 acres); and private claim 115, parcel 1 (.854 acre).

56.109 acres - The Pueblo purchased from Jose T. Vigil, et al., December 19, 1936, private claim 76, parcel 1 (1.454 acre) ; portion of private claim 130, parcel 3 (11.34 acres); and portion of private claim 138, parcel 1 (43.315 acres).

18.482 acres - The Pueblo purchased from Cesario C. Gonzales, et al., June 2, 1939, (corrected deed February 1, 1945) as private claim 103, parcel 1 (15.434 acres); portion of private claim 106 parcel 2 (0.119 acre); private claim 106, parcel 3 (.378 of an acre); private claim 112, parcel 1 (0.193 acre) and private claim 145, parcel 1(2.358 acres).

0.861 acre - Pueblo purchased from Miguel Gonzales et al., October 11,1939, portion of private claim 106 parcel 2 (0.861 acre).

6.220 acres - Pueblo purchased from Baranis Baros, et al., December 14, 1939, private claim 80 parcel 1.

0.273 acre - Sixto Duran and Econstancia V. de Duran. On December 11, 1939 (correction deed dated November 8, 1944) Pueblo exchanged private claim 81, parcel 4 (.698 acre) for private claim 63, parcel 2 (.971 acre), producing net increase in acreage of .273 acre.

-0.086 acre - Emilio Valencia. On January 27, 1940, Pueblo exchanged a tract described by metes and bounds and located adjacent to P.C. 38, parcel 1 and /or private claim 51, parcel 2 (.86 acre) for private claim 73 parcel 1 (.774 acre). resulting in a net decrease of land holdings of (.086acre)

-0.115 acre - Maximo Herrera and Felipa M. de Herrera. On March 15, 1940, Pueblo exchanged private claim 133 parcel 1 (0.136 acre), private claim 133 parcel 2 (0.039 acre); and private claim 134, parcel 1 (0.049 acre) for private claim 102, parcel 2 (.032 acre), private claim 74, parcel 2, (.017 acre), private claim 141, parcel 2 (.026 acre), private claim 47, parcel 4 (.034 acre), for a net decrease in acreage of .115 acre.

3.668 acres - The Pueblo purchased from Lorenzo Montoya. April 19, 1940, private claim 81, parcel 1 (2.310 acres) and private claim 81, parcel 3 (1.348 acres).

0.288 acre - The Pueblo purchased from Jose Benito Archuleta, July 25, 1941, private claim 136, parcel 1.

0.00 acre - Darol K. Froman. On April 19, 1947, the Pueblo exchanged "a tract of land in Section 6, T. 19 N., R 8 E., N.M.P.M. . . . containing 0.35 acres, more or less" for a portion of private claim 113, parcel 1(0.35 acre).

0.00 acre - T.P. Scarborough, et al., on April 14, 1947, the Pueblo exchanged "a tract of tribal land within Section 32, T. 20N, R. 8 E., N.M.P.M.... containing 0.13 acres, more or less..." for a portion of private claim 76, parcel 2 (0.13 acre, more or less).

0.00 acre - Darol Kenneth Froman and Ethel Norris Froman. On September 2, 1958, the Pueblo exchanged "a tract of land lying and being situate in Section 6, T. 19 N., R.8 E., N.M.P.M..... containing 0.24 acre, more or less" for a portion of private claim 113, parcel 1 (.24 acre more or less) .

5.47 acres - The Pueblo purchased from Ruth Montoya on November 17, 1975 a portion of private claim 105, parcel 4 (5.47 acres).

0.388 acre - The Pueblo purchased from Estefanita Quintana de Duran, on July 12, 1985, private claim 8, Parcel 3 (. 347 acre); private claim 8, parcel 4 (.024 acre) and private claim 8, parcel 5 (.017 acre).

1.089 acres - The Pueblo purchased from Lucy Chavez, on April 4, 1994, private claim 79, parcel 1.

6.72 acres - The Pueblo purchased from Victoria B. Chavez , on October 9, 2001, a portion of private claim 85, parcel 1 (6.72 acres).

2.13 acres - The Pueblo purchased from Joe E. Gonzales and Domitila Gonzales, on October 9, 2001, private claim 64, parcel 1.

5.538 acres - First American Title Insurance Company. The Pueblo exchanged a tract within the Pueblo Grant containing .376 acres, and a second tract within the Pueblo Grant containing 1.71 acres for a portion of private claim 43, parcel 3 (7.624 acres) resulting in a net increase of 5.538 acres.

4. **1949 reservation (Sacred Area):**

5,913.66 acres which comprises a portion of the Ramon Vigil Grant. The land was transferred to the Secretary of the Interior for the use of the Indians, Executive Order 8255 (September 18, 1939), and it was set aside by Congress for San Ildefonso Pueblo, 63 Stat. 604 (August 13, 1949).

5. **1961 Reservation (Eastern Reservation):**

433.27 acres. Former public domain described as Lots 1 and 2 of Section 26; Lot 5 of Section 27; Lots 1, 4, 5 and 8 of Section 34; Lots 3, 4, 5, 6 and W 2 W 2 of Section 35; all in T. 20 N., R. 8 E., N.M.P.M. The Pueblo of San Ildefonso Eastern Reservation was set aside by Congress, by the Act of September 14, 1961 (75 Stat. 505).

6. **Act of November 22, 1997:**

The Act authorized the transfer of lands from the Department of Energy to the Secretary of the Department of the Interior for the benefit of the Pueblo of San Ildefonso (111 Stat. 2523).

14.9396 acres - Parcel B-1

A parcel of land being a part of the Ramon Vigil Grant in Los Alamos County, New Mexico.

2,089.8819 acres - Parcel B-2:

A parcel of land being a part of Township 19 North, Range 7 East of the N.M.P.M., County of Santa Fe, New Mexico.

7. **Act of July 30 , 2003:**

The Act authorized the transfer of these lands from the Bureau of Land Management public domain to the Secretary of the Interior for the benefit of the Pueblo of San Ildefonso (117 Stat. 876)

2000 acres - BLM land transfer (117 Stat. 876, 2003; S. 2711)

The portion of T. 20 N., R. 7 E., Sec. 22, N.M.P.M., located S of boundary line.
The portion of T. 20 N., R. 7 E., Sec. 26, N.M.P.M., located SW of boundary line.

The portion of T. 20 N., R. 7 E., Sec. 27, N.M.P.M., located S of boundary line.
T. 20 N., R. 7 E., Sec. 34, N.M.P.M.
The portion of T. 20 N., R. 7 E.., Sec. 35, N.M.P.M. that is not included in the San Ildefonso Pueblo Grant.

8. Gift Lands:

a. Within the San Ildefonso Pueblo Grant:

5 acres - Rose A. Ide granted to the Pueblo, on November 26, 2002
Township 19 North, Range 8 East, Section 29, lot 48, and Section 30 lot 18, N.M.P.M., Santa Fe County, New Mexico.

6 acres - Henrietta Miller bequeathed to the Pueblo, Administrator's Warranty Deed dated February 4, 1997, a portion of private claim 76, parcel 2, together with a tract of abutting land in the west side thereof, and the southerly portion of private claim 77, parcel 3; and
Tract II: That portion of the above tract obtained from the Pueblo of San Ildefonso in Exchange Deed by and between T.P. Scarborough, Earl Myers and Mela Myers; and the United States of America as Trustee for the Pueblo of San Ildefonso; and the Pueblo of San Ildefonso, dated April 14, 1947, and recorded in Misc. Deeds Book 34, Page 499 in Records of Santa Fe County, New Mexico, and more particularly described as follows: A tract of tribal land within Section 32, T. 20 N., R. 8 E., N.M.P.M.

b. Outside of the San Ildefonso Pueblo Grant:

85 acres - Henrietta Miller Rio Arriba Property
Certain property in the SE/4 NW/4 and Lot 2 of Section 19, Township 20 North, Range 7 East, Rio Arriba County, New Mexico, containing approximately 40 acres.

Certain property in the S/2 NW/4 NE/4, N/2 SW/4 NE/4, SE/4 NE/4, Section 24, Township 20 North, Range 6 East, SE/4 NW/4; containing approximately 40 acres.

Certain property in Section 25, Township 20 North, Range 7 East, Rio Arriba County, New Mexico, containing approximately 5 acres.

Route 5, Box 315-A
Santa Fe, New Mexico
(505) 455-2273
(505) 455-7351 (FAX)

Dale Martinez
Governor

Louis Naranjo, Jr.
1st Lieutenant Governor

Leon Roybal
2nd Lieutenant Governor

Tribal Council

James Pena

Garrett Pino, Sr.

Martin W. Aguilar

Timothy J. Roybal

Vincent Kaniatobe

Nathan Sanchez

Lawrence Aguilar

Raymond Martinez

Phillip Kaniatobe

Christopher Moquino

Adrian Roybal

PUEBLO OF SAN ILDEFONSO
RESOLUTION NO. SI-R04-009

APPROVING SETTLEMENT OF
***PUEBLO OF SAN ILDEFONSO v. UNITED STATES*, DOCKET NO. 354**

At a duly called meeting of the Tribal Council of the Pueblo de San Ildefonso held on this 11th day of March, 2004, when a quorum was present the following resolution was approved:

WHEREAS: The Pueblo of San Ildefonso is a sovereign and self-governing tribe and is federally recognized as such by the United States of America with the Authority to govern its people, lands and other resources;

WHEREAS: The Pueblo of San Ildefonso Tribal Council is the duly constituted governing body acting with authority for the Pueblo and responsible for the Pueblo in its exercise of sovereign governmental powers;

WHEREAS: The Pueblo of San Ildefonso has been prosecuting a claims case, originally filed in 1951 with the Indian Claims Commission entitled Pueblo of San Ildefonso v. United States, Docket No. 354, now in the United States Court of Federal Claims;

WHEREAS: The Indian Claims Commission (ICC) on May 9, 1973, entered an Opinion and Findings of Fact in Docket No. 354 that determined the United States was liable for the taking of certain aboriginal title lands of the Pueblo, and provided a land description for the San Ildefonso aboriginal title area together with a separate description of the area taken;

WHEREAS: The United States Court of Claims in 1975 affirmed the Indian Claims Commission Findings of Fact and Legal Opinion;

WHEREAS: In 1983, the Claims Court granted the Pueblo's motion to divide the case into five (5) subdockets;

WHEREAS: In the early 1990s the United States produced a map showing (a) aboriginal boundaries, (b) excluded lands and (c) taken lands, which map revealed the existence of San Ildefonso

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aboriginal land where the Pueblo's aboriginal title was not found by the ICC to have been taken from the Pueblo;

WHEREAS: In 1996, the U.S. Court of Federal Claims found the United States liable to the Pueblo on four of the five subdockets;

WHEREAS: The Court in 1996 issued judgment in favor of the Pueblo in subdocket 354-B (accounting claims) in the amount of $131,951.89, determined the United States was liable for a breach of the duty of good faith and fair dealing in subdocket 354-D, found the United States liable on part of subdocket 354 C for breach of trust (duty to make financial resources productive) and reserved consideration of part of subdocket 354-C pertaining to loss of or injury to water rights, until the conclusion of San Ildefonso's water adjudication in the case of the *State of New Mexico v. Aamodt*;

WHEREAS: The Pueblo has been involved in extensive negotiations with the Department of Justice, the National Park Service, the U.S. Forest Service, the Bureau of Land Management, to achieve a settlement that allows the Pueblo to increase its present land base, using money awarded as compensation for the losses of the Pueblo that led to the claims in Docket 354;

WHEREAS: The Pueblo has achieved a Settlement Agreement with the Department of Justice, the National Park Service, the United States Forest Service and the Bureau of Land Management that provides compensation to the Pueblo in the form of: (1) monetary award; (2) enhanced Pueblo participation in the management of certain National Park Service holdings and Bureau of Land Management holdings, and (3) the ability to reacquire a significant portion of its aboriginal title lands from the United States Forest Service, and the Settlement Agreement is attached to this resolution;

WHEREAS: The Pueblo and the United States of America have stipulated that the amount of the monetary award to the Pueblo is Six Million, Nine Hundred Thousand Dollars ($6,900,000), which the Pueblo can use to acquire National Forest and other lands as set forth in the Settlement Agreement with the United States;

WHEREAS: Final settlement of the case will result in extinguishment of the Pueblo's aboriginal ownership rights outside lands currently owned or held in trust for the Pueblo;

WHEREAS: The Pueblo voting members by Resolution No. SI-R01-009 (2001), and the

RESOLUTION NO. SI-R04-009
Page 3

Tribal Council by several Resolutions in 2001, 2002, and 2003 supported the settlement framework included in the attached Settlement Agreement;

WHEREAS: The Tribal Council has fully discussed and considered the Settlement Agreement attached to this resolution;

WHEREAS: The Congress of the United States needs to authorize and approve certain provisions in the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Pueblo of San Ildefonso Tribal Council that the Tribal Council approved the attached Settlement Agreement with the United States and federal agencies for the purpose of resolving the Pueblo's claims as set forth in *Pueblo of San Ildefonso v. United States*, U.S.Ct.Fed.Cl. Docket 354; and

BE IT FURTHER RESOLVED that the Governor of the Pueblo of San Ildefonso is authorized to sign a final Settlement Agreement in a form substantially similar to the one attached; and

BE IT FURTHER RESOLVED that the Governor and Tribal Council designees are authorized to appear and testify before the United States Court of Federal Claims and Congress regarding the proposed settlement and the action taken by the Tribal Council of the Pueblo of San Ildefonso, if necessary.

CERTIFICATION

I, the undersigned as Governor of San Ildefonso Pueblo, hereby certify that, at a duly called meeting of the Tribal Council of San Ildefonso Pueblo, convened and held on the 11th day of March, 2004, at San Ildefonso Pueblo, New Mexico, the Tribal Council approved this Resolution, a quorum being present, and that 13 voted in favor, 0 opposed and 0 abstained.

PUEBLO OF SAN ILDEFONSO

Dale Martinez, Governor

ATTEST:

Tribal Secretary

CERTIFICATION

At a duly called meeting of the Tribal Council of the Pueblo of San Ildefonso on the 11th day of MARCH 2004 Resolution SI-R04-009 was adopted.

Mr. Dale Martinez, Governor

Mr. Louis Naranjo, Jr., 1st Lt. Governor

Mr. Leon Roybal, 2nd Lt. Governor

Mr. James Pena, Head Sheriff

Mr. Garrett Pino, Sr., Asst. Sheriff

Mr. Martin W. Aguilar, Head Fiscale

Mr. Timothy Roybal, Asst. Fiscale

Mr. Vincent Kaniatobe, Asst. Fiscale

Mr. Nathan Sanchez, Head War Captain

Mr. Lawrence Aguilar, 1st War Captain

Mr. Raymond Martinez, 2nd War Captain

Mr. Phillip Kaniatobe, Asst. War Captain

Mr. Christopher Moquino, Asst. War Captain

Mr. Adrian Roybal, Asst. War Captain

LOS ALAMOS AGREEMENT

THIS AGREEMENT, referred to herein as the "Los Alamos Agreement" or "Agreement", is made as of the date of the last signature below, is by and between the **Incorporated County of Los Alamos** (herein referred to as the "County"), the **Pueblo of San Ildefonso** (herein referred to as the "Pueblo"), the **U.S. Department of Agriculture-Forest Service** (herein referred to as the "Forest Service" and the **U.S. Department of Interior-Bureau of Indian Affairs** (herein referred to as "BIA"). These entities are collectively referred to as the "Parties".

PURPOSE

This "Los Alamos Agreement" is an agreement among the Parties to address certain issues identified herein which result from or are affected by a tentative framework for the settlement of a claim by the Pueblo with the United States originally filed with the Indian Claims Commission entitled Pueblo of San Ildefonso v. United States, Docket No. 354, now pending in the United States Court of Federal Claims. The County recognizes that it is not a party to the pending litigation in the U.S. Court of Federal Claims, Docket No. 354, between the United States and the Pueblo, nor is the County a party to the settlement of that litigation. This Agreement reflects the County's interest in the outcome of the settlement, but is not intended to, nor shall result in, the County being a party to the settlement of the litigation.

RATIFICATION AND PRECONDITIONS

The Council of the Incorporated County of Los Alamos, by approval of Resolution 03-24 on December 16, 2003, supports the conveyance of lands as described in this Agreement as part of the overall settlement framework to the pending litigation in the U.S. Court of Federal Claims, Docket No. 354, between the United States and the Pueblo, subject to and conditioned upon the specific terms and conditions of County Resolution 03-24, this Agreement, and ratification by Congress. Additionally, the Parties agree that this Agreement is subject to it being ratified by the United States Congress as a matter of federal law, and all appropriate and necessary federal agency authorities being granted to carry out its terms. This Agreement is specifically contingent on Congressional approval, hereafter referred to herein as the "ratifying legislation" of the settlement of the aforementioned litigation on terms not inconsistent with the provisions hereof.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, as must be ratified by the United States Congress, the Parties agree as follows:

1. Legislative Cooperation. The Parties agree that they will cooperate and support the ratifying legislation consistent with this Agreement.

2. Settlement Area Lands. The National Forest Lands proposed for conveyance to the Pueblo as part of the settlement are referred to as "Settlement Area Lands" and are shown on a map entitled "Map of Proposed Settlement of Docket 354, United States vs. Pueblo of San Ildefonso"

and hereby referred to as Attachment "A" and which is appended to this Agreement and made a part hereof for all purposes. The lands referenced on Attachment "A" are more fully described as National Forest lands in all or portions of Sections 19-21, 28-33, Township 20 North, Range 7 East and Sections 4-9, Township 19 North, Range 7 East. The Settlement Area Lands are estimated to contain approximately 7689 gross acres, of which 7058 acres will be conveyed for consideration to the Pueblo and then transferred to the Secretary of Interior in trust for the Pueblo. The actual acreage conveyed to the Pueblo will be determined by the Bureau of Land Management record surveys, less and except the Water System Lands which are estimated to contain 631 acres. In conformance with Section 4.a., a survey will be completed by the Federal Government to describe the road reservations to be used in the conveyance document and to establish and post the new Pueblo/National Forest boundary and when completed will be marked as the "Final Pueblo of San Ildefonso Settlement Survey" and filed with this document. Conveyance of these lands shall be by quitclaim deed or patent, as appropriate, from the United States which will include reservations for existing roads and trails specified in the Settlement Agreement.

All Parties agree that within one year of ratifying legislation, the Forest Service will undertake the road improvement work to Forest Road 416V (described in Section 5.b.) to a high clearance standard (level 2). The Settlement Area Lands will not be conveyed until payment has been made by the Pueblo for the Water System Lands and the Forest Service is prepared to convey those lands to the County.

The County recognizes that the ratifying legislation of the settlement may include lands within Rio Arriba County, but the inclusion of such lands shall have no effect on this Agreement.

3. Water Rights. The settlement of the litigation will provide that no water rights will be conveyed to the Pueblo with the Settlement Area Lands; provided, however, that nothing in this Agreement shall limit the Pueblo's use of surface water for livestock and wildlife watering purposes. No water rights will be conveyed to the County with the Water System Lands.

4. Boundary Determinations.

a. Boundary Determinations. The boundaries depicting the lands identified for conveyance, on Attachment "A" and a map entitled "Los Alamos Map" hereby referred to as Attachment "B" are appended hereto and made a part for all purposes, and are intended to be approximate locations. Final boundaries will be determined by the Forest Service, on the ground, with participation by the County and the Pueblo for the Water System Lands (identified in Section 6. below) and Settlement Area Lands, and by the County and for the lands adjacent to Los Alamos Townsite (identified in Section 9. below), hereafter referred to as the "Los Alamos Townsite Lands".

The County will pay for the surveys deemed necessary by the Forest Service that are required for the conveyance of the Water System Lands and the Los Alamos Townsite Lands. The Pueblo, or BIA (subject to the availability of appropriated funds for BIA), will pay for the surveys deemed

necessary by the Forest Service that are required for the Settlement Area Lands. All necessary boundary surveys used for the conveyances are intended to be completed by the Forest Service, or under its supervision, within one year from the date of adoption of the ratifying legislation.

All Parties agree that boundary determinations made by the Forest Service are final and not subject to administrative appeal or actions under Section 10.b.

b. Specific Boundary Identification. The Pueblo and the County also agree that the boundary line on the ridge line between Rendija and Guaje Canyons, from the Los Alamos County line in a southeasterly direction to a point where the boundary turns to the northwest, will always follow the north side of the existing trail. The Parties will locate the boundary, for trail maintenance purposes, no less then 10 feet and no more than 20 feet from the north side of the existing trail surface, with the goal of minimizing the number of angle points. Final boundary determinations for this location will follow the same process as described in Section 4.a.

5. Emergency Evacuation Route.

a. Designation. Effective immediately upon passage of the ratifying legislation, the Guaje Canyon Road, as shown on Attachment "A," and designated on the map as "Emergency Access Route" highlighted in green, is hereby designated as an emergency evacuation route. Should the Water System Lands ever vest in the Pueblo, the segment of road identified in Attachment "A" as the "Copar Mine Access" will become a part of the emergency evacuation route. The County shall be entitled to a global positioning station (GPS) map of the Guaje Canyon Road provided by the Pueblo or BIA, and when completed, the map will be marked as the "Final Emergency Evacuation Route GPS Map" and filed with this document. In the event County makes such a request, the Pueblo shall notify the County in writing within thirty days after the date of the request whether the Pueblo or BIA will provide the GPS map and the date that the GPS map will be provided, which shall be within twelve months after the date of the request. If the Pueblo elects not to provide a GPS map, or the Pueblo does not respond to the County's request for a GPS map within the 30-day period provided herein, the Pueblo hereby authorizes County to enter upon Pueblo lands for the sole purpose of obtaining a GPS map of the Guaje Canyon Road. The Pueblo shall make the Guaje Canyon Road immediately available as an emergency evacuation route for emergencies recognized by the Pueblo in consultation with federal, state, and local governments, and emergencies independently recognized by the Federal Government, the State of New Mexico, or the County, after complying with Section 5.c.

b. Condition and Maintenance. The Pueblo, or BIA (subject to the availability of appropriated funds for BIA), shall at their expense, assure that the passable surface along the emergency evacuation route on Pueblo owned-land is maintained at all times and is no less than twenty feet (20') in width. Representatives of the County will be entitled to travel and inspect the emergency evacuation route at least once each calendar year at a time reasonably acceptable to the County and the Pueblo to determine the condition of the route. If the condition of the route is unsatisfactory to the County, both Parties shall coordinate on a proposed schedule for the completion of repairs to the route, within thirty (30) days after the initial notification by the

County. A representative of the County will be entitled to travel and inspect the emergency evacuation route again following the completion date of the repairs. If the repairs are inadequate, the Pueblo shall allow the County to make repairs necessary to cause the route to be passable in the minimum required width.

c. Alterations. The Pueblo or BIA may alter the route of the Guaje Canyon Road or make other substantial alterations to the Guaje Canyon Road only with advance written notification to the County. The Pueblo or BIA shall give the County at least ninety (90) days' advance written notice prior to the date the Pueblo or BIA would propose to change the route of the Guaje Canyon Road or otherwise to make a substantial alteration to the road, specifying the change to be made, the purpose of the change, and when the change or alteration would be begun and finished. The County shall respond in writing if there are any concerns. In the event the County does not respond in writing within the period specified in the notice, which shall be no less than ninety (90) days in duration, the County shall be deemed to have accepted the change in route or other substantial alteration specifically described in the written notice to the County. If the County has concerns, the Pueblo agrees to act in good faith to address them.

d. Recognized Emergencies. The Pueblo shall respond and make one or more representatives of the Pueblo immediately available for consultation with respect to the recognition of an emergency. The County shall notify and consult with the Pueblo as soon as reasonably practicable in the event an emergency has been recognized by the Federal Government or the State of New Mexico, or any of their agencies. In the event the County expects to recognize an emergency that may result in the use of the Guaje Canyon Road for evacuation purposes, notice to the Pueblo Tribal Offices shall involve a verbal or written statement or request by a County Official. During consultation, between the Pueblo and County, details pertaining to the logistics of the use of the road during an emergency should be worked out within a time frame appropriate to the emergency, which may require an immediate response.

6. Water System Lands.

a. Designation. The Water System Lands are shown on the map entitled Attachment "A" and include National Forest lands in portions of Section 1, Township 19 North, Range 6 East; Sections 31-32, Township 20 North, Range 7 East; and Sections 4-6, Township 19 North, Range 7 East and are estimated to contain approximately 631 acres of land. In accordance with Section 4.a., the Water System Lands will be described in a survey completed by the Federal Government, when completed will be marked as the "Final Water System Land Survey" and filed with this document. The County will also pay to the United States reasonable processing costs for the conveyance of these lands. The value of the Water System Lands will be determined based on the contributory value of those lands to the appraised value of the Settlement Area Lands. The United States Forest Service shall receive market value for the Water System Lands at the time of the conveyance for consideration to the County, which amount the Pueblo shall pay from the Pueblo's settlement fund.

b. Public Access Roads. All roads marked "public access roads" shown on Attachment "A" are a part of the Forest Road Development System and will be maintained by the Forest Service, as limited by the Santa Fe National Forest's yearly appropriations and road maintenance priorities, to allow for public access to the National Forest adjoining the Settlement Area Lands and Water System Lands; except that, the County agrees to maintain those public access roads within the Water System Lands, while these roads are in County ownership, and the Forest Service will maintain public access roads outside the Water System Lands boundary. Said roads shall also constitute access for any valid occupancies of the National Forest existing on the date of this Agreement. Subject to the availability of appropriated funds, the Forest Service will complete road improvement work to Forest Road 416V necessary to allow public access to the National Forest prior to conveyance of the Settlement Area Lands to the Pueblo and the Water System Lands to the County. Neither the Pueblo nor the County will take any action to block or inhibit access to these roads and the roads will remain open to the public at all appropriate times in accordance with Forest Service policies and practices.

c. Use of the Water Supply System. Any use whatsoever relating to the development, maintenance or operation of the County's water supply system shall be sufficient to evidence the County's intent not to abandon its ownership of the Water System Lands. These uses may include, but are not limited to, maintenance of one or more wells, whether or not those wells are producing water on a regular basis, other maintenance procedures relating to one or more wells or any other part of the water supply system, including water lines, any development, maintenance or operation activities or any other activity on or relating to the Water System Lands as a part of the County's water supply system.

d. Conveyance Document to the Water System Lands and the Contingent Remainder. Conveyance of these lands shall be by quitclaim deed or patent, as appropriate, from the United States which will include reservations for existing roads and trails specified in this Agreement. The deed to the Water System Lands will convey fee simple ownership of the property to the County without water rights or restriction, except that the deed will include a reservation of rights in the United States necessary to allow public access and administrative access to the National Forest along those roads and trails shown on Attachment "A" as "Road Reserved for Public Use" and "Road Reserved for Administrative Use & Public Trail Access," respectively. The deed from the United States to the County will also provide for a contingent remainder interest in the Pueblo, pursuant to which that portion of the Water System Lands outside of Los Alamos County will vest in the Pueblo or in trust for the Pueblo from and after the time the County abandons its use of the entirety of the Water System Lands, as a part of its water supply system. The County shall retain title to the entirety of the Water System Lands, unless and until the County agrees in writing that it has abandoned use of the entirety of the Water System Lands, or until at least (10) years have expired after the Water System Lands, or any part thereof, has been used by the County for any purpose relating to its water supply system. Should these lands vest in the Pueblo, then all improvements will be abandoned in place. Prior to conveyance of the Water System Lands to the County, the United States will convey to the Pueblo a right of

access for ceremonial or other cultural purposes, which will be an exception in the subsequent deed to the County.

7. State Road 4 Right-of-Way.

a. Official Documents. The Agreements referenced in paragraph Section 5 of County Resolution 03-24 refer to the following documents:

1. Grant of Easement, dated May 1, 2000, for Right-of-Way for the portion of State Highway 4 located within the Pueblo of San Ildefonso Sacred Area to the U.S. Department of Energy.

A right-of-way on parcel of land within Tract A of the Ramon Vigil Grant in Township 19, North, Range 7 East, N.M.P.M., Santa Fe County, State of New Mexico to maintain, repair, and rebuild a road or highway which is direct access for Los Alamos National Laboratory and the community of White Rock and to maintain, repair replace, rebuild, and remove fencing along both sides of the road or highway right of way.

2. Grant of Easement, dated August 1, 1998, for Right-of-Way for Electric Lines and Grant of Easement for Right-of-Way for Water Line to the U.S. Department of Energy.

A right-of-way on land located in Section 33, Township 19 North, Range 7 East; for operation, inspection, protection, maintenance and repair of water line and to operate, repair, replace, rebuild and removal of two existing electric lines.

3. Grant of Easement, dated February 1, 1984, for Right-of-Way to Mountain Bell.

A right-of-way on existing telecommunication corridors situated in Sections 11, 12, 13, 14, 15, 22, 28, 29 and 33, Township 19 North, Range 7 East, N.M.P.M. within the San Ildefonso Pueblo lands for placement, maintenance and reinforcement of telephone facilities.

4. Any other existing utility easements within or adjoining the State Road 4 right-of-way not stated above.

Each and every one of these documents shall be amended by the Pueblo (Grantor) in a manner acceptable to the Grantee, to incorporate the terms and conditions of the Resolution with regard to the State Road 4 corridor and shall be recorded in the official records of Santa Fe and Los Alamos Counties and in the appropriate records of the BIA. The Pueblo and the County shall cooperate fully in causing the necessary amendments to be made and the documents properly recorded within one year from the date of the ratifying legislation.

The right to use the State Road 4 easement for access shall remain in force and effect unless and until a period of at least ten (10) years has expired after the easement, or any part thereof, has been used by the County, the United States, or the public for access. The right to use the easements for utilities' purposes shall remain in force and effect unless and until a period of at least ten (10) years has expired after the easement, or any part thereof, has been used by the County or another utility provider in compliance with federal laws and regulations. Furthermore, the right to use the easements for the purposes intended, access or utilities, shall remain in force

and effect beyond the ten (10) years if failure to use for the 10-year period was due to circumstances beyond the County's control.

b. Pavement Widening. The Pueblo agrees that the Grant of Easement, dated May 1, 2000, for the Right-of-Way for the portion of State Highway 4 located within the Pueblo of San Ildefonso Sacred Area to the U.S. Department of Energy, has not restricted or limited the County's ability to widen the paved area within the area covered by that certain Grant of Easement for Right-of-Way on the portion of State Highway 4 located within the Pueblo of San Ildefonso Sacred Area, which Grant is now in effect and will remain in effect as provided in this Agreement. The County may make a proposal, to the appropriate agencies, to widen the pavement of State Road 4, only with advance written notification to the Pueblo. The County shall give the Pueblo at least ninety (90) days advance written notice prior to the date that the County would send a proposal to the appropriate agencies, to widen the pavement on this road; specifying the proposal to be made, the purpose of the proposal, and the proposed timing of the project. The Pueblo shall respond in writing if there are any concerns. In the event the Pueblo does not respond in writing within the period specified in the notice, which shall be no less than ninety (90) days in duration, the Pueblo shall be deemed to have accepted the proposal specifically described in the written notice to the Pueblo. If the Pueblo has concerns, the County agrees to act in good faith to address them.

8. Copar Mine Access. The County agrees to allow access to Copar Pumice Company, Inc. or its successors or assigns ("Copar"), as permitted under that certain Contract for Sale of Mineral Materials dated May 4, 1994 and ending December 31, 2005 (the "Contract") between Copar and the Forest Service. For purposes of carrying out the Contract, access shall be permitted along the road identified as "Copar Mine Access" highlighted in purple on Attachment "A" during the term of the Contract for the sole purpose of allowing Copar ingress and egress on the referenced road to the point where it reaches Pueblo land. Nothing in this Agreement shall entitle Copar to enter into Los Alamos County for the purpose of exercising its rights under the Contract without prior written authorization from the County. The County defers to the Pueblo and for itself disclaims any rights or obligations respecting Copar's rights, if any, to ingress and egress over Pueblo lands. Nothing in this Agreement is intended to afford third party rights to Copar, or increase Copar's existing rights as they exist under the Contract.

9. Los Alamos Townsite Lands. The United States will convey for consideration to the County, with the support of the Pueblo, those lands that contain existing infrastructure improvements belonging to or used by the County as shown on Attachment "B. The intent by the Forest Service is to convey the property in which said infrastructure lies to the County. The County will pay to the United States the appraised market value and the reasonable processing costs for the conveyance of these lands, including the costs of appraisals done in conformity with Federal appraisal standards. Each of the six separate parcels will be appraised as stand alone parcels. These lands are estimated to contain approximately 324 acres. The actual acreage will be finally determined by a survey to be completed by the Federal Government, in conformance with Section 4.a. Conveyance of these lands shall be by quitclaim deed or patent, as appropriate, from

the United States, which deeds shall include reservations for existing public roads and trails. The conveyances may be phased or accomplished in a single transaction, as agreed to by the Forest Service and the County. The County also agrees to provide, at no charge, the United States with a public road easement over an existing road south of Tract B from an existing dirt road around the north end of the Cemetery to an existing paved County Road. Each parcel will be conveyed separately in its entirety and will be paid for in a lump sum. The conveyances to the County are subject to the availability of appropriated funds. The rights that the County may have under this Section shall expire 10 years after the date of adoption of the ratifying legislation.

10. Guaje Reservoir. The County will relinquish their rights to improvements known as, "Guaje Reservoir and non-potable water transmission line to Range Rd. and Diamond Dr. point of delivery", as described in that certain unrecorded Bill of Sale for Related Personal Property executed by the United States of America to the County, acting through the U.S. Department of Energy on September 5, 2001. The relinquishment shall be in form and language that is acceptable to the United States and executed at the same time that the Forest Service executes a deed to the Water System Lands. The improvements will be abandoned in place. Nothing in this Agreement shall be construed to waive any rights or liabilities of any party under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA).

11. Public Road Access and Disputes under this Agreement.

a. Public Road Access. The Pueblo and the County agree that they will not take action to block or prevent the use of roads shown as "public use roads" identified in Attachment "A" or any roads specified under this Agreement. All parties agree that Section 11.b. will be used as a remedy in lieu of physical actions to block or prevent the use of any road covered under this Agreement.

b. All Disputes pertaining to this Agreement. Provided that the Federal Courts will exercise jurisdiction, the Parties agree that any claim or dispute between or among the Pueblo, the County, or the United States arising under the Los Alamos Agreement or otherwise related to the Settlement Area Lands, the Water System Lands, public access to the National Forest through the lands conveyed pursuant to the settlement, or any other matter relating to the subject of the Los Alamos Agreement, will be brought in Federal Court and federal law shall apply. The Parties will take all reasonable actions to assume jurisdiction in the Federal Courts. Tribal Courts will not be used to resolve any such claim or dispute. The Pueblo and the County each consenting to a limited waiver of sovereign immunity allowing suit by either party in Federal Court to hear any such disputes or claims. The limited waiver includes the ability to seek emergency relief.

12. Amendments to this Agreement. The County, Pueblo, Forest Service and BIA may from time to time require amendments to this Agreement that are mutually beneficial. Amendments to this Agreement are considered valid and enforceable, providing that they are in writing, dated, do not violate federal law or regulation and will be accepted and approved by the Parties that have an interest in the amendment. Except as otherwise provided in this Agreement (specifically with respect to the maintenance of Forest Development Roads), all Parties recognize that the term of

Forest Service participation and liability under this Agreement will expire once all conveyances are executed and recorded.

13. Counterparts. The Agreement may be executed in counterparts.

The above described Agreement and Conditions are Accepted and Approved:

Council Chairman, Incorporated County of Los Alamos — Date: 12/18/03

Governor, Pueblo of San Ildefonso — Date: 12/19/03

Regional Forester, Southwestern Region, Forest Service — Date: 1/9/04

Regional Director, Southwest Region, Bureau of Indian Affairs — Date: 22 January 04

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) §
COUNTY OF Los Alamos)

The foregoing was acknowledged before me on this 18 day of DECEMBER 2003 by GEOFF RODGERS, known to me to be the Council Chairman, Incorporated County of Los Alamos, New Mexico, who being by me duly sworn that he signed said instrument on behalf of the Incorporated County of Los Alamos, New Mexico, under authority duly given, and executed same as the free act and deed of the Incorporated County of Los Alamos, New Mexico, for the consideration and purposes therein contained.

Pauline V. Martinez
Notary Public

My Commission expires: 11-17-07

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) §
COUNTY OF SANTA FE)

The foregoing was acknowledged before me on this 15 day of December 2003 by John Gonzales, known to me to be the Governor, Pueblo of San Ildefonso, New Mexico, who being by me duly sworn that he signed said instrument on behalf of the Pueblo, under authority duly given, and executed same as the free act and deed of the Pueblo of San Ildefonso, New Mexico, for the consideration and purposes therein contained.

Peter Chestnut
Notary Public

My Commission expires: 8-11-2004

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) §
COUNTY OF Bernalillo)

The foregoing was acknowledged before me on this 9 day of January 2008 by Harv Forsgren, known to me to be the Regional Forester, Southwestern Region, Forest Service, United States Department of Agriculture, who being by me duly sworn that he/she signed said instrument on behalf of the United States of America under authority duly given, and executed same as the free act and deed of the United States of America for the consideration and purposes therein contained.

Notary Public

My Commission expires: 11-30-05

OFFICIAL SEAL
PATRICIA MARES
Notary Public
State of New Mexico
My Commission Expires 11-30-05

ACKNOWLEDGMENT

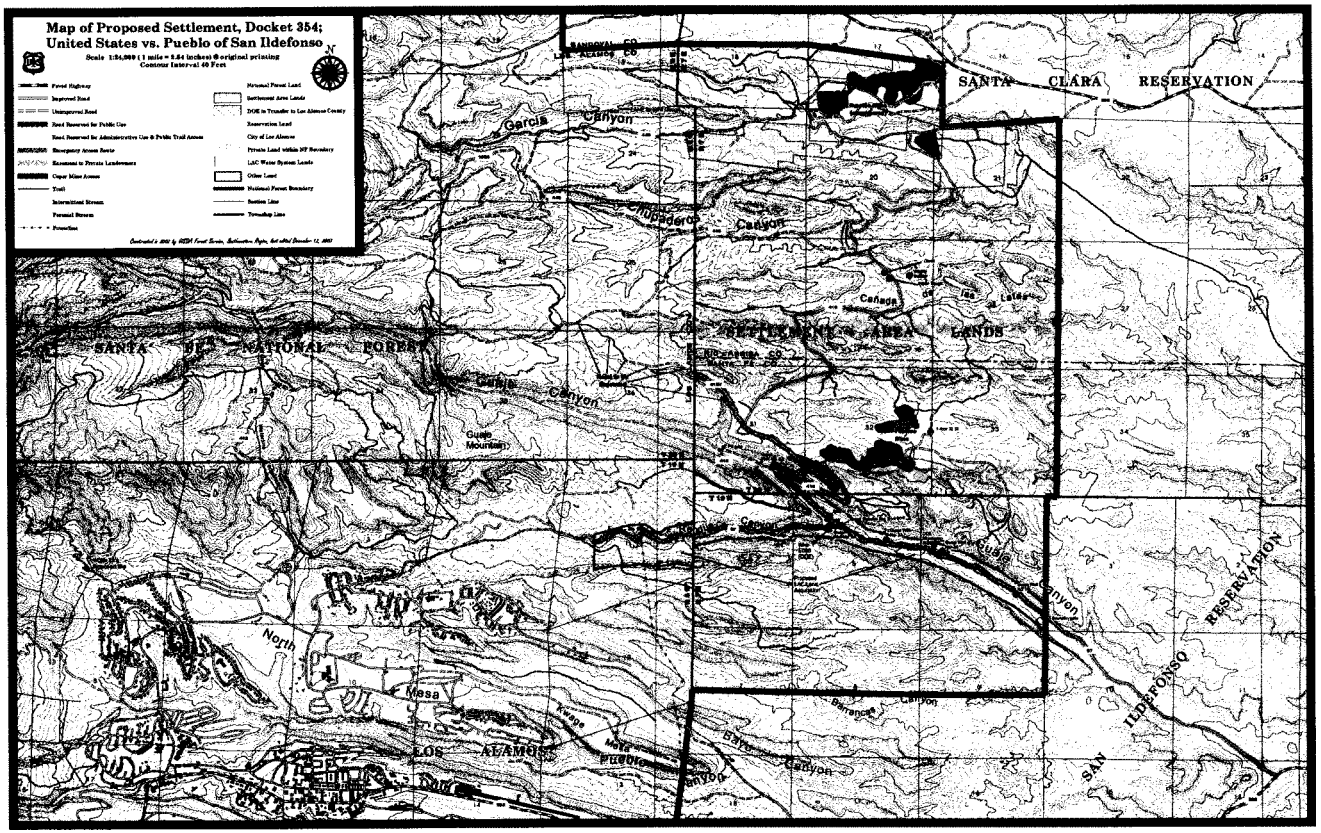
STATE OF NEW MEXICO)
) §
COUNTY OF Bernalillo)

The foregoing was acknowledged before me on this 22nd day of January 2007 by Ronald E. Ira, known to me to be the Regional Director, Southwest Region, Bureau of Indian Affairs, United States of America, who being by me duly sworn that he/she signed said instrument on behalf United States of America, under authority duly given, and executed same as the free act and deed of the United States of America, for the consideration and purposes therein contained.

Notary Public

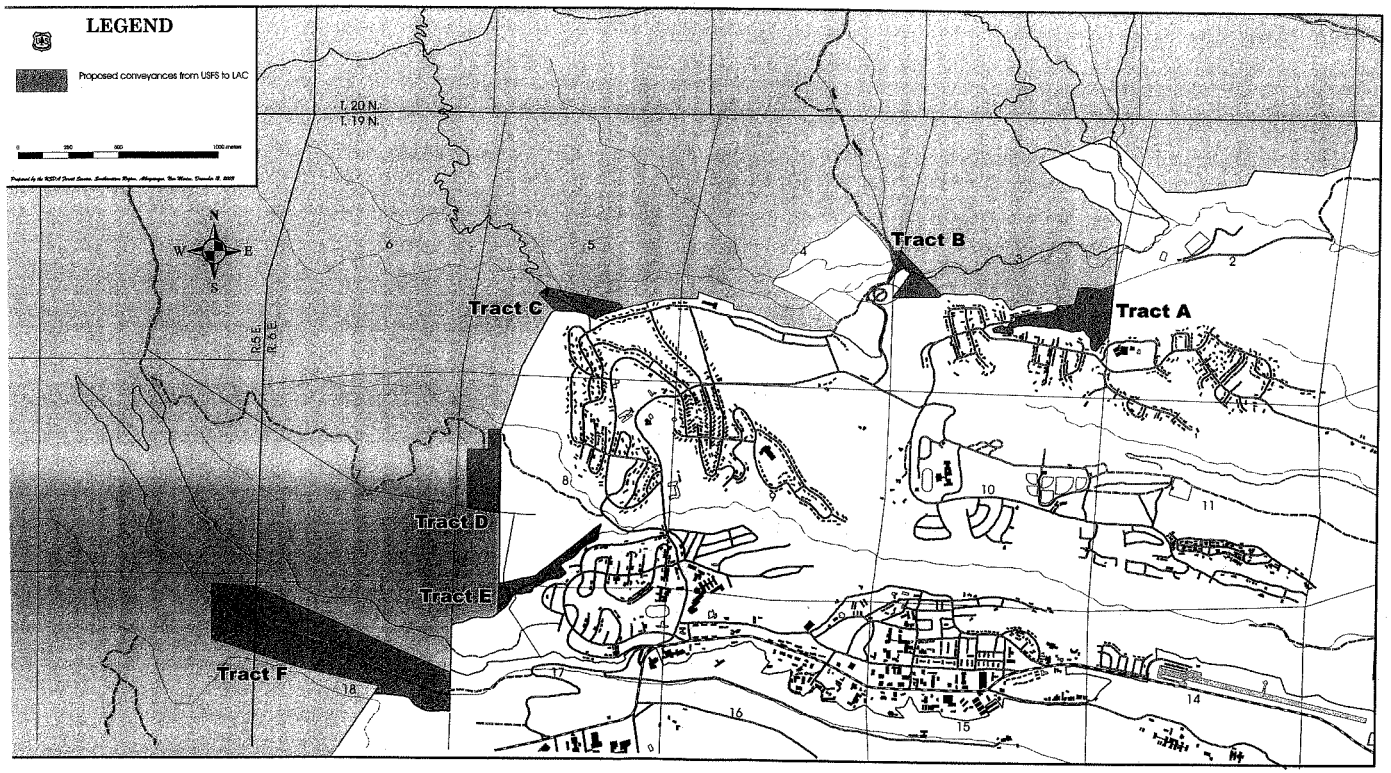
My Commission expires: April 17, 2004

Attachment "A"



Attachment "B"

LOS ALAMOS MAP



INCORPORATED COUNTY OF LOS ALAMOS RESOLUTION NO. 03-24

A RESOLUTION SUPPORTING THE SAN ILDEFONSO CLAIMS SETTLEMENT FRAMEWORK IN DOCKET 354

WHEREAS, the Pueblo of San Ildefonso (the "Pueblo") has reached a tentative framework with the United States for settlement of its claims case, originally filed with the Indian Claims Commission entitled *Pueblo of San Ildefonso v. United States,* Docket No. 354, now in the United States Court of Federal Claims; and

WHEREAS, Los Alamos County recognizes that it is not a party to the pending litigation in the U.S. Court of Federal Claims, Docket No. 354, between the United States and the Pueblo, nor is the County a party to the settlement of that litigation; and

WHEREAS, this Resolution and the Los Alamos Agreement described herein reflect the County's interest in the outcome of the settlement but are not intended to, nor shall result in, the County being a party to the settlement of the litigation; and

WHEREAS, as a part of the settlement framework, the United States has tentatively agreed that the United States will convey certain lands adjacent to Los Alamos County to the Pueblo; and

WHEREAS, the County of Los Alamos appreciates and understands the Pueblo's wish to acquire property comprising a part of the ancestral lands of the Pueblo; and

WHEREAS, the County Council is responsible for assuring that the interests of the County and its citizens are protected with respect to any action that may be taken with respect to conveyance of lands now used by the County or its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE INCORPORATED COUNTY OF LOS ALAMOS that:

Section 1. **Los Alamos Agreement.** The County Council supports the conveyance to the Pueblo of lands described on Attachment "A" as the Settlement Area Lands (the "Settlement Area Lands") subject to and conditioned upon the specific terms and conditions of this Resolution and that certain Los Alamos Agreement between the Pueblo, the County, and the Forest Service relating to the commitments and agreements described in this Resolution No. 03-24 being met. The Council's support of the conveyance of lands is also conditioned upon the provisions of the Los Alamos Agreement being accepted and ratified by the United States Congress as a matter of federal law, and all appropriate and necessary federal agency authorities being granted to carry out its terms, and provided that the United States reserves necessary access easements to allow public access to the National Forest along those roads and trails shown on Attachment "A" as "public access roads or trails" and that those roads are added to the National Forest Road System.

The Council authorizes the Council Chair, with the advice of the appropriate Council committee and staff assistance, to finalize and execute the Los Alamos Agreement.

Section 2. Settlement Area Lands. The Settlement Area Lands are estimated to contain approximately 7058 acres and will be conveyed for consideration to the Pueblo or to the Secretary of Interior in trust for the Pueblo. The actual acreage will be determined by a survey to be completed by the Federal Government. No water rights will be conveyed with the Settlement Area Lands; provided, however, that the Pueblo shall be entitled to use surface water for wildlife and livestock grazing purposes. Attachment "A" is attached to this Resolution and made a part hereof for all purposes.

Section 3. Emergency Evacuation Route. The County Council accepts and appreciates the designation by the Pueblo of Guaje Canyon Road as an emergency evacuation route for emergencies recognized by the Pueblo in consultation with federal, state, and local governments, and emergencies independently recognized by the federal government, the State of New Mexico, or the County. The Pueblo will be notified, and consultation regarding any recognized emergency will be required as described in the Los Alamos Agreement. The location, width, maintenance, and other such specifics of the emergency evacuation route are addressed in the Los Alamos Agreement, along with similar specific terms and conditions relating to the other agreements and commitments described in this Resolution.

Section 4. Water System Lands. The County Council will accept from the United States a conveyance for consideration of lands shown on Attachment "A" as "Water System Lands," such lands being hereinafter referred to as the "Water System Lands." These lands are estimated to contain approximately 631 acres. The actual acreage will be determined by a survey to be completed by the Federal Government. The County will pay to the United States reasonable processing costs for the conveyance of these lands, including the costs of the survey appraisals done in conformity with Federal appraisal standards. The deed to the Water System Lands will convey fee simple ownership of the property to the County without water rights or restriction, except that the deed will include a reservation of rights in the United States necessary to allow public access and administrative access to the National Forest along those roads and trails shown on Attachment "A" as "Road Reserved for Public Use" and "Road Reserved for Administrative Use & Public Trail Access," respectively, and will provide for a contingent remainder interest in the Pueblo, pursuant to which the Pueblo's title to that portion of the Water System Lands outside of Los Alamos County which will be held by the Pueblo or in trust for the Pueblo from and after the time the County abandons its use of the entirety of the Water System Lands as a part of its water supply system. The County shall retain title to the entirety of the Water System Lands unless and until the County agrees in writing that it has abandoned use of the entirety of the Water System Lands, or until at least (10) years have expired after the Water System Lands, or any part thereof, has been used by the County for any purpose relating to its water supply system. The United States Forest Service shall receive market value for the Water System Lands at the time of the conveyance for consideration to the County, which amount the Pueblo shall pay from the Pueblo's

settlement fund. The deed to the County will also specifically provide for a right of access to the Water System Lands by the Pueblo for ceremonial or other cultural purposes.

Section 5. Rights-of-Way for State Road 4 including Utility Corridor Amended to Remove Term Limits. The County Council will accept from the Pueblo, at no cost to the County, an amendment of existing agreements for State Road 4 and utilities along State Road 4 to remove the limitation of term, and cause the existing easement to continue until such time as the easement has been abandoned by both the public, with respect to access, and by the County, with respect to access and use for utilities' purposes. The right to use the easement for access shall remain in force and effect unless and until a period of at least ten (10) years has expired after the easement, or any part thereof, has been used by the County, the United States, or the public for access. The right to use the easement for utilities' purposes shall remain in force and effect unless and until a period of at least ten (10) years has expired after the easement, or any part thereof, has been used by the County or another utility provider in compliance with federal laws and regulations. Furthermore, the right to use the easements for the purposes intended, access or utilities, shall remain in force and effect beyond the ten (10) years if failure to use for the 10-year period was due to circumstances beyond the County's control.

The County acknowledges that that the Pueblo has not restricted or limited the County's ability to widen the paved area within the area covered by that certain Grant of Easement for Right-of-Way for the Portion of State Highway 4 Located Within the Pueblo of San Ildefonso Sacred Area, which Grant is now in effect and will remain in effect as provided in this Resolution and the Los Alamos Agreement.

Section 6. Public Access to the National Forest and other Access Concerns. The County Council acknowledges that the roads shown on Attachment "A" through the Settlement Area Lands as "public access roads" have been added to and will be maintained as part of the National Forest Road System for public access to the National Forest. The United States will complete road improvement work to Forest Road 416V necessary to allow public access to the National Forest prior to conveyance of the Settlement Area Lands to the Pueblo and the Water System Lands to the County. Neither the Pueblo nor the County will take any action to block or inhibit access to these roads and the roads will remain open to the public at all appropriate times in accordance with Forest Service policies and practices.

The County agrees to allow limited access to Copar Pumice Company, Inc. or its transferee ("Copar"), as permitted under that certain Contract for Sale of Mineral Materials dated May 4, 1994 and ending December 31, 2005 (the "Contract). Access shall be permitted along the road shown on Attachment "A" as "Copar Mine Access" during the term of the Contract for the sole purpose of allowing Copar ingress and egress for purposes of carrying out the Contract. Copar shall, in no event, be entitled to enter into Los Alamos County for the purpose of exercising its rights under the Contract without prior written authorization from the County. The County defers to the Pueblo and for itself disclaims any

rights or obligations respecting Copar's rights, if any, to ingress and egress over Pueblo lands.

Section 7. **Transfers near Los Alamos Townsite From Forest Service to Los Alamos County.** The County Council will accept from the United States, with the support of the Pueblo, the conveyance for consideration of lands to the County which contain existing infrastructure improvements belonging to or used by the County as shown on Attachment "B," attached hereto and made a part hereof for all purposes. The County will pay to the United States market value and reasonable processing costs for the conveyance of these lands, including the costs of appraisals done in conformity with Federal appraisal standards. These lands are estimated to contain approximately 324 acres. The actual acreage will be finally determined by a survey to be completed as described in the Los Alamos Agreement.

Section 8. **Guaje Reservoir.** The County will relinquish any right it currently has to use the works at Guaje Reservoir and the associated pipeline, as shown on Attachment "A." County will abandon all improvements in place.

Section 9. **Disputes.** Provided that the federal court will exercise jurisdiction, the parties agree that any claim or dispute between or among the Pueblo, the County, or the United States arising under the Los Alamos Agreement or otherwise related to the Settlement Area Lands, the Water System Lands, public access to the National Forest Service through the lands conveyed pursuant to the settlement, or any other matter relating to the subject of the Los Alamos Agreement will be brought in federal court and federal law shall apply to the interpretation and construction of the Los Alamos Agreement and any other such matter. Tribal Courts will not be used to resolve any such claim or dispute. The County's obligations under the Los Alamos Agreement are conditioned upon the Pueblo and the County each consenting to a limited waiver of sovereign immunity allowing suit by either party in federal court to hear any such disputes or claims. The limited waiver includes the ability to seek emergency relief.

ADOPTED on the 16th day of December, 2003.

COUNCIL OF THE INCORPORATED COUNTY OF LOS ALAMOS

Geoff Rodgers

Geoff Rodgers
Council Chair

COUNTY OF LOS ALAMOS INCORPORATED SEAL

ATTEST:

Nita K. Taylor

Nita K. Taylor
Los Alamos County Clerk

DATE January 7, 2004
CERTIFIED A TRUE AND CORRECT COPY
OF LA County Res. 03-24
Adopted
RECORDED ON Dec. 16th 03
IN BOOK N/A PAGE N/A
Nita K. Taylor
LOS ALAMOS COUNTY CLERK
BY Sheryl Vidal
DEPUTY