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Public Law 109–379
109th Congress

An Act

Dec. 1, 2006
[H.R. 5842]

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is pending before the United States Court of Federal Claims a civil action filed by the Pueblo against the United States in which the Pueblo seeks to recover damages pursuant to the Isleta Jurisdictional Act;

(2) the Pueblo and the United States, after a diligent investigation of the Pueblo claims, have negotiated a Settlement Agreement, the validity and effectiveness of which is contingent on the enactment of enabling legislation;

(3) certain land of the Pueblo is waterlogged, and it would be to the benefit of the Pueblo and other water users to drain the land and return water to the Rio Grande River; and

(4) there is Pueblo forest land in need of remediation in order to improve timber yields, reduce the threat of fire, reduce erosion, and improve grazing conditions.

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

(1) to improve the drainage of the irrigated land, the health of the forest land, and other natural resources of the Pueblo; and

(2) to settle all claims that were raised or could have been raised by the Pueblo against the United States under the Isleta Jurisdictional Act in accordance with section 5.

SEC. 3. DEFINITIONS.

In this Act:

(1) ISLETA JURISDICTIONAL ACT.—The term "Isleta Jurisdictional Act" means Public Law 104–198 (110 Stat. 2418).

(2) PUEBLO.—The term "Pueblo" means the Pueblo of Isleta, a federally recognized Indian tribe.

(3) RESTORATION FUND.—The term "Restoration Fund" means the Pueblo of Isleta Natural Resources Restoration Fund established by section 4(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the Agreement of Compromise and Settlement entered into between the United States and the Pueblo, dated July 12, 2005, as modified by the Extension and Modification Agreement executed by the United States and the Pueblo on June 22, 2006, to settle the claims of the Pueblo in Docket No. 98–166L, a case pending in the United States Court of Federal Claims.

SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a trust fund, to be known as the "Pueblo of Isleta Natural Resources Restoration Fund", consisting of—

(1) such amounts as are transferred to the Restoration Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Restoration Fund under subsection (d).

(b) TRANSFERS TO RESTORATION FUND.—Upon entry of the final judgment described in section 5(b), there shall be transferred to the Restoration Fund, in accordance with conditions specified in the Settlement Agreement and this Act—

(1) $32,838,750 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code; and

(2) in addition to the amounts transferred under paragraph (1), at such times and in such amounts as are specified for that purpose in the annual budget of the Department of the Interior, authorized to be appropriated under subsection (f), and made available by an Act of appropriation, a total of $7,200,000.

(c) DISTRIBUTION OF AMOUNTS FROM RESTORATION FUND.—

(1) APPROPRIATED AMOUNTS.—

(A) IN GENERAL.—Subject to paragraph (3), upon the request of the Pueblo, the Secretary shall distribute amounts deposited in the Restoration Fund pursuant to subsection (b)(2) of this section and section V of the Settlement Agreement, in accordance with the terms and conditions of the Settlement Agreement and this Act, on the condition that before any such distribution the Secretary receives from the Pueblo such assurances as are satisfactory to the Secretary that—

(i) the Pueblo shall deliver funds in the amount of $7,100,000 toward drainage and remediation of the agricultural land and rehabilitation of forest and range land of the Pueblo in accordance with section IV(C) and IV(D) of the Settlement Agreement; and

(ii) those funds shall be available for expenditure for drainage and remediation expenses as provided in sections IV(C) and IV(D) of the Settlement Agreement on the dates on which the Secretary makes distributions, and in amounts equal to the amounts so distributed, in accordance with sections IV(A) and IV(B) of the Settlement Agreement.

(B) USE OF FUNDS.—Of the amounts distributed by the Secretary from the Restoration Fund under subparagraph (A)—

(i) $5,700,000 shall be available to the Pueblo for use in carrying out the drainage and remediation of approximately 1,081 acres of waterlogged agricultural land, as described in section IV(A) of the Settlement Agreement; and

(ii) $1,500,000 shall be available to the Pueblo for use in carrying out the rehabilitation and remediation of forest and range land, as described in section IV(B) of the Settlement Agreement.

(C) FEDERAL CONSULTATION.—Restoration work carried out using funds distributed under this paragraph shall be planned and performed in consultation with—

(i) the Bureau of Indian Affairs; and

(ii) such other Federal agencies as are necessary.

(D) UNUSED FUNDS.—Any funds, including any interest income, that are distributed under this paragraph but that are not needed to carry out this paragraph shall be available for use in accordance with paragraph (2)(A).

(2) AMOUNTS FROM JUDGMENT FUND.—

(A) IN GENERAL.—Subject to paragraph (3), the amount paid into the Restoration Fund under subsection (b)(1), and interest income resulting from investment of that amount, shall be available to the Pueblo for—

(i) the acquisition, restoration, improvement, development, and protection of land, natural resources, and cultural resources within the exterior boundaries of the Pueblo, including improvements to the water supply and sewage treatment facilities of the Pueblo; and

(ii) for the payment and reimbursement of attorney and expert witness fees and expenses incurred in connection with Docket No. 98–166L of the United States Court of Federal Claims, as provided in the Settlement Agreement.

(B) NO CONTINGENCY ON PROVISION OF FUNDS BY PUEBLO.—The receipt and use of funds by the Pueblo under this paragraph shall not be contingent upon the provision by the Pueblo of the funds described in paragraph (1)(A)(i).

(3) EXPENDITURES AND WITHDRAWAL.—

(A) TRIBAL MANAGEMENT PLAN.—

(i) IN GENERAL.—Subject to clause (ii), the Pueblo may withdraw all or part of the Restoration Fund on approval by the Secretary of a tribal management plan in accordance with section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022).

(ii) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), a tribal management plan described in clause (i) shall require that the Pueblo shall expend any funds withdrawn from the Restoration Fund under this paragraph in a manner consistent with the purposes described in the Settlement Agreement.

(B) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan described in subparagraph (A)(i) to ensure that any funds withdrawn from the Restoration Fund under this paragraph are used in accordance with this Act.

(C) LIABILITY.—If the Pueblo exercises the right to withdraw funds from the Restoration Fund under this paragraph, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the accounting, disbursement, or investment of the funds withdrawn.

(D) EXPENDITURE PLAN.—

(i) IN GENERAL.—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portion of the funds in the Restoration Fund made available under this Act that the Pueblo does not withdraw under this paragraph.

(ii) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Pueblo remaining in the Restoration Fund will be used.

(iii) APPROVAL.—On receipt of an expenditure plan under clause (i), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Settlement Agreement.

(E) ANNUAL REPORT.—The Pueblo shall submit to the Secretary an annual report that describes expenditures from the Restoration Fund during the year covered by the report.

(d) MAINTENANCE AND INVESTMENT OF RESTORATION FUND.—

(1) IN GENERAL.—The Restoration Fund and amounts in the Restoration Fund shall be maintained and invested by the Secretary of the Interior pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037, chapter 648).

(2) CREDITS TO RESTORATION FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Restoration Fund shall be credited to, and form a part of, the Restoration Fund.

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

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

SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF LITIGATION, AND COMPENSATION TO PUEBLO.

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

Deadline.

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

(c) COMPENSATION.—After the date of the enactment of this Act, in accordance with the Settlement Agreement and upon entry of the final judgment described in subsection (b)—

(1) compensation to the Pueblo shall be paid from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, in the total amount of $32,838,750 for all monetary damages and attorney fees, interest, and any other fees and costs of any kind that were or could have been presented in connection with Docket No. 98–166L of the United States Court of Federal Claims; but

(2) the Pueblo shall retain all rights, including the right to bring civil actions based on causes of action, relating to the removal of ordnance under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Defense Environmental Restoration Program under section 2701 of title 10, United States Code; and

(C) any contract entered into by the Pueblo for the removal of ordnance.

(d) OTHER LIMITATIONS ON USE OF FUNDS.—The Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to funds distributed or withdrawn from the Restoration Fund under this Act.

(e) NO EFFECT ON LAND, RESOURCES, OR WATER RIGHTS.—Nothing in this Act affects the status of land and natural resources or any water right of the Pueblo.

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 5842 (S. 3648):

SENATE REPORTS: No. 109–354 accompanying S. 3648 (Comm. on Indian Affairs).
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