

STATEMENT OF PUEBLO OF SANDIA GOVERNOR STUART PAISANO ON
H.R. 3605, “SANDIA PUEBLO SETTLEMENT TECHNICAL AMENDMENT ACT,”
BEFORE THE UNITED STATES HOUSE SUBCOMMITTEE ON
INDIAN AND ALASKA NATIVE AFFAIRS

February 5, 2014

Good afternoon, Chairman Young, Ranking Member Hanabusa, and Committee Members. On behalf of the Pueblo and our Tribal Council, I want to express our sincere thanks to you, ranking member Hanabusa, and the Committee for acting so quickly to schedule a hearing on this technical amendment to the T’uf Shur Bien Preservation Trust Area Act (which I will hereafter refer to as the “Settlement Act”), and for inviting me to testify. As you are probably aware, an identical technical amendment bill is currently pending in the Senate and was favorably reported out by the Senate Indian Affairs Committee just last week. With the enactment of this technical amendment, a land exchange between the Pueblo and the Forest Service that Congress authorized almost 11 years ago by the Settlement Act will finally happen.

To provide some background, the Settlement Act was passed in 2003 to resolve the Pueblo of Sandia’s longstanding claim to ownership of the west face of Sandia Mountain, a claim that had been the subject of both a favorable federal district court decision and an Interior Department Solicitor’s opinion. The Act places special protections on the Mountain’s west face (the “Area”), a sacred place to the Pueblo, while retaining it as part of the Cibola National Forest, with continued public access. The settlement involved significant concessions by the Pueblo and addressed issues that continued litigation could not have. One of the Act’s provisions directs a land exchange between the Pueblo and the Forest Service. Specifically it provides that “[n]ot later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary [of Agriculture] shall, in accordance with applicable laws, prepare and offer a land

exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation . . . for land owned by the Pueblo in the Evergreen Hills Subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.” The Act further provides that land exchanged to the Pueblo “shall remain in its natural state and shall not be subject to commercial development of any kind.”

Although the Pueblo and the Forest Service were able to quickly reach agreement on the National Forest land to be transferred to the Pueblo, almost eleven years have now passed without the exchange being completed, primarily because of the disagreement over how the lands at issue are to be valued. Specifically, Forest Service/Agriculture Department officials took the position that, despite the Act's restrictions that the land to be transferred to the Pueblo (approximately 710 acres) shall remain in its natural state, the land still had to be appraised as if those restrictions did not exist and as if it could be commercially developed – which of course it cannot.

To address this problem, Congress passed a technical amendment to the Settlement Act in 2009. The amendment provides that the restrictions on the use of the land to be transferred to the Pueblo are “a condition of conveyance.” However, Agriculture Department officials subsequently informed the Pueblo that the Department did not believe that the technical amendment adequately addressed the valuation issue and the Department persisted in its position that the land to be transferred to the Pueblo had to be appraised based on its highest and best use, without regard to the statutory prohibition on its development.

H.R. 3605 provides a straight-forward, expeditious, and less costly way to accomplish the land exchange directed by the 2003 Settlement Act. It does so simply by directing an inter-

agency exchange between the Departments of Agriculture and the Interior of the land and property interests involved. That is, the Forest Service land identified for exchange will be transferred to the Department of the Interior, in trust for the Pueblo, and the Department of the Interior will transfer to the Forest Service a property known as the La Luz tract, as well as a conservation easement on and a trail easement across a property known as the Piedra Lisa tract. Both of these properties were former private in holdings within the Preservation Trust Area that the Pueblo purchased. The Pueblo fully supports this technical amendment bill and greatly appreciates the Forest Service's willingness to work with it, through the Senate Indian Affairs Committee, on changes to the Senate version of this bill, which changes are reflected in the House bill before you today.

Thank you for hearing the Pueblo's views on H.R. 3605 and I will be happy to try to respond to any questions that you or other members of the Committee may have.

O:\Sandia\Sandia Lands\Sandia MOUNTAIN (& FS Land Exchange)\Statement of Governor Stuart Paisano 013014.docx