

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 107-216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539f to 539l-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 539f of this title and Tables.

§ 539l-5. Wilderness potential**(a) In general**

Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preservation System or to make recommendations to Congress for such inclusion.

(b) Evaluation of certain lands

In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after August 21, 2002, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 539l(d)(1)(F) of this title for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

(Pub. L. 107-216, § 8, Aug. 21, 2002, 116 Stat. 1061.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 107-216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 539f to 539l-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 539f of this title and Tables.

§ 539m. Findings and purposes**(a) Findings**

Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) Purposes

The purposes of sections 539m to 539m-12 of this title are—

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

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M-36963; 96 I.D. 331) and January 19, 2001 (M-37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

(Pub. L. 108-7, div. F, title IV, § 402, Feb. 20, 2003, 117 Stat. 279.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsec. (b), was in the original "this title", meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 108-7, div. F, title IV, § 415, Feb. 20, 2003, 117 Stat. 294, provided that: "The provisions of this title [see Short Title note below] shall take effect immediately on enactment of this Act [Feb. 20, 2003]."

SHORT TITLE

Pub. L. 108-7, div. F, title IV, § 401, Feb. 20, 2003, 117 Stat. 279, provided that: "This title [enacting this section and sections 539m-1 to 539m-12 of this title, amending section 1746 of Title 43, Public Lands, and enacting provisions set out as a note above] may be cited as the 'T'uf Shur Bien Preservation Trust Area Act'."

§ 539m-1. Definitions

In sections 539m to 539m-12 of this title:

(1) Area**(A) In general**

The term "Area" means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) Exclusions

The term "Area" does not include—

- (i) the subdivisions;
- (ii) Pueblo-owned land;
- (iii) the crest facilities; or
- (iv) the special use permit area.

(2) Crest facilities

The term "crest facilities" means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) Existing use

The term "existing use" means a use that—

(A) is occurring in the Area as of February 20, 2003; or

(B) is authorized in the Area after November 1, 1995, but before February 20, 2003.

(4) La Luz tract

The term "La Luz tract" means the tract comprised of approximately 31 acres of land

owned in fee by the Pueblo and depicted on the map.

(5) Local public body

The term “local public body” means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6-5-1).

(6) Map

The term “map” means the Forest Service map entitled “T’uf Shur Bien Preservation Trust Area” and dated April 2000.

(7) Modified use

(A) In general

The term “modified use” means an existing use that, at any time after February 20, 2003, is modified or reconfigured but not significantly expanded.

(B) Inclusions

The term “modified use” includes—

- (i) a trail or trailhead being modified, such as to accommodate handicapped access;
- (ii) a parking area being reconfigured (but not expanded); and
- (iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) New use

(A) In general

The term “new use” means—

- (i) a use that is not occurring in the Area as of February 20, 2003; and
- (ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) Exclusions

The term “new use” does not include a use that—

- (i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or
- (ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) Piedra Lisa tract

The term “Piedra Lisa tract” means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) Pueblo

The term “Pueblo” means the Pueblo of Sandia in its governmental capacity.

(11) Secretary

The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) Settlement Agreement

The term “Settlement Agreement” means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) Special use permit

The term “special use permit” means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company.

(14) Special use permit area

(A) In general

The term “special use permit area” means the land and facilities subject to the special use permit.

(B) Inclusions

The term “special use permit area” includes—

- (i) approximately 46 acres of land used as an aerial tramway corridor;
- (ii) approximately 945 acres of land used as a ski area; and
- (iii) the land and facilities described in Exhibit A to the special use permit, including—
 - (I) the maintenance road to the lower tram tower;
 - (II) water storage and water distribution facilities; and
 - (III) 7 helispots.

(15) Subdivision

The term “subdivision” means—

- (A) the subdivision of—
 - (i) Sandia Heights Addition;
 - (ii) Sandia Heights North Unit I, II, or 3;
 - (iii) Tierra Monte;
 - (iv) Valley View Acres; or
 - (v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) Traditional or cultural use

The term “traditional or cultural use” means—

- (A) a ceremonial activity (including the placing of ceremonial materials in the Area); and
- (B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

(Pub. L. 108-7, div. F, title IV, § 403, Feb. 20, 2003, 117 Stat. 280.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in text, was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The National Environmental Policy Act of 1969, referred to in par. (8)(B)(i), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in par. (8)(B)(ii), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 539m-2. T'uf Shur Bien Preservation Trust Area**(a) Establishment**

The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section 539m-3(a) of this title;

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) Administration and applicable law**(1) In general**

The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of sections 539m to 539m-12 of this title affecting management of the Area.

(2) Traditional or cultural uses

Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section 539m-3(a)(4) of this title shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on February 20, 2003; and

(B) applicable Federal wildlife protection laws, as provided in section 539m-4(a)(2) of this title.

(3) Later enactments

To the extent that any law enacted or amended after February 20, 2003, is inconsistent with sections 539m to 539m-12 of this title, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) Trust

The use of the word “Trust” in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) Map**(1) Filing**

As soon as practicable after February 20, 2003, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) Public availability

The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) Effect

The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in sections 539m to 539m-12 of this title, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section 539m-7 of this title or subsection (b) or (c) of section 539m-11 of this title shall be made; and

(C) to the extent that the map and the language of sections 539m to 539m-12 of this title conflict, the language of sections 539m to 539m-12 of this title shall control.

(d) No conveyance of title

No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) Prohibited uses**(1) In general**

Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of February 20, 2003, shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section 539m-3(a)(3) of this title.

(2) Mining claims

The Area is closed to the location of mining claims under section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the “Mining Law of 1872”).

(f) No modification of boundaries

Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

(Pub. L. 108-7, div. F, title IV, § 404, Feb. 20, 2003, 117 Stat. 282.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsecs. (b)(1), (3) and (c)(3), was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The Wilderness Act, referred to in subsecs. (b)(2)(A) and (e)(1)(A), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Mining Law of 1872, referred to in subsec. (e)(2), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incor-