

**(B) Conditions**

The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by sections 539m to 539m-12 of this title.

**(2) Utility rights-of-way**

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company: *Provided*, That use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

**(3) Forest Service rights-of-way**

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

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

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

(Pub. L. 108-7, div. F, title IV, § 409, Feb. 20, 2003, 117 Stat. 287.)

## REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsecs. (a)(3), (b)(2)(C), (d)(3), (e)(1), and (h)(1)(B)(iii), 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.

**§ 539m-8. Extinguishment of claims****(a) In general**

Except for the rights and interests in and to the Area specifically recognized in sections 539m-2, 539m-3, 539m-5, 539m-6, and 539m-7 of this title, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

**(b) Subdivisions**

Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of February 20, 2003), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

**(c) Special use and crest facilities areas**

Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

**(d) Pueblo agreement**

As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection<sup>1</sup> (a), (b), and (c).

**(e) Consideration**

The recognition of the Pueblo's rights and interests in sections 539m to 539m-12 of this title constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section 539m-7 of this title, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to sections 539m to 539m-12 of this title.

(Pub. L. 108-7, div. F, title IV, § 410, Feb. 20, 2003, 117 Stat. 290.)

## REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsec. (e), was in the original "this title", meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat.

<sup>1</sup> So in original. Probably should be "subsections".

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.

### § 539m-9. Construction

#### (a) Strict construction

Sections 539m to 539m-12 of this title recognize only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

#### (b) Existing rights

To the extent there exist within the Area as of February 20, 2003, any valid private property rights associated with private land that are not otherwise addressed in sections 539m to 539m-12 of this title, such rights are not modified or otherwise affected by sections 539m to 539m-12 of this title, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section 539m-3(a)(3)(A) of this title.

#### (c) Not precedent

The provisions of sections 539m to 539m-12 of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

#### (d) Fish and wildlife

Except as provided in section 539m-6(b)(2)(B) of this title, nothing in sections 539m to 539m-12 of this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(Pub. L. 108-7, div. F, title IV, § 411, Feb. 20, 2003, 117 Stat. 291.)

#### 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.

#### CODIFICATION

Section is comprised of section 411 of div. F of Pub. L. 108-7. Subsec. (e) of section 411 of div. F of Pub. L. 108-7 amended section 1746 of Title 43, Public Lands.

### § 539m-10. Judicial review

#### (a) Enforcement

A civil action to enforce the provisions of sections 539m to 539m-12 of this title may be brought to the extent permitted under chapter 7 of title 5. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5.

#### (b) Waiver

A civil action may be brought against the Pueblo for declaratory judgment or injunctive

relief under sections 539m to 539m-12 of this title, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

#### (c) Venue

Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of sections 539m to 539m-12 of this title, shall lie only in the United States District Court for the District of New Mexico.

(Pub. L. 108-7, div. F, title IV, § 412, Feb. 20, 2003, 117 Stat. 291.)

#### 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.

### § 539m-11. Provisions relating to contributions and land exchange

#### (a) Contributions

##### (1) In general

The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with sections 539m to 539m-12 of this title.

##### (2) Deadline

Not later than 1 year after February 20, 2003, the Secretary shall complete the survey of the Area under paragraph (1)(A).

#### (b) Land exchange

##### (1) In general

Not later than 180 days after February 20, 2003, after consultation with the Pueblo, the Secretary 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 within sections 3, 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, 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.

##### (2) Acceptance of payment

Notwithstanding section 1716(b) of title 43, the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

##### (3) Funds received

Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under section 484a of this title, and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

##### (4) Treatment of land exchanged or conveyed

All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo