

**STATEMENT OF PUEBLO OF SANDIA COUNCILMAN STUART PAISANO ON**  
**S. 611, "SANDIA PUEBLO TECHNICAL AMENDMENT ACT,"**  
**BEFORE THE UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS**

**May 8, 2013**

Good afternoon, Chairwoman Cantwell, Ranking Member Barrasso, and Committee Members, my name is Stuart Paisano. I was the Governor of Sandia Pueblo for six years, from 2000 to 2006, and am currently a Tribal Council Member. On behalf of the Pueblo, I want to express our sincere thanks to you and the Committee for acting so quickly to schedule a hearing on this technical amendment to the T'uf Shur Bien Preservation Act and for inviting me to testify. As you know, a similar technical amendment was introduced by Senator Bingaman in 2011 and passed out of this Committee, but did not make it to the floor for a vote. The Pueblo hopes that with the passage of this technical amendment, the land exchange that Congress authorized over 10 years ago in the T'uf Shur Bien Preservation Trust Act (hereafter the "2003 Settlement Act" or "2003 Act") will finally happen.

S.611 provides that, if the land exchange directed by the 2003 Settlement Act is not completed within 90 days of its enactment, upon receipt of the consideration provided for in amended subsection 413(b)(6)(B) of the technical amendment, the Secretary of Agriculture shall transfer approximately 710 acres of identified National Forest land to the Secretary of the Interior, in trust for the Pueblo. S.611 also resolves the impasse over valuation of the National Forest land at issue that I will explain in a moment, and should finally accomplish the long overdue land exchange directed by the 2003 Act.

To provide some background, the 2003 Act was passed to settle the Pueblo of Sandia's longstanding claim to the ownership of the west face of Sandia Mountain. 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. It also contains a provision which directs 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 2003 Act provided that the exchange should take place within 180 days, ten years have now passed without the exchange being completed. While the Forest Service and Pueblo representatives were quickly able to agree on the National Forest land to be transferred to the Pueblo, progress on the exchange stalled because of disagreement on how this land should be valued. Specifically, Forest Service/Agriculture Department officials took the position that, despite the Act's restrictions on the use of the land to be transferred to the Pueblo--that it remain in its natural state and not be commercially developed--the land still had to be appraised as if those restrictions did not exist. The Department rested its position on the contention that the restrictions on the use of the land to be transferred to the Pueblo did not become effective until after the transfer and the conditions were not expressed as a condition of the conveyance.

To address this, 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, after months of apparent internal analysis and discussion, Agriculture Department officials told the Pueblo that the Department viewed the

technical amendment as effectively meaningless and still maintained 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 development of the land.

The current technical amendment removes any doubt on this score. It amends the 2003 Settlement Act to provide that the Forest Service land to be transferred is to be valued “subject to the condition that the . . . land remain in its natural state.” It also provides for the transfer to the Forest Service of the approximately 30-acre La Luz Tract owned by the Pueblo within the Preservation Trust Area that the Forest Service has long wanted to acquire. The La Luz tract is located on a cliff-face near the top of the crest of Sandia Mountain. It is not susceptible to development. Finally, the technical amendment requires the Pueblo to pay any difference between the value of the La Luz tract and the trail right-of-way and conservation easement on the 160-acre Piedra Lisa tract that the Pueblo will grant to the Forest Service, and the value of the approximately 710 acres of Forest Service land the Pueblo is to receive.

Thank you for hearing the Pueblo's views on Senate Bill 611 and I will be happy to try to respond to any questions that you or other members of the Committee may have.