Committee on Natural Resources

Rob Bishop, Chairman

Markup Memorandum

September 9, 2015

To: Natural Resources Committee Members

From: Majority Committee Staff, Sub. on Indians, Insular and Alaska Native Affairs x6-9725

Subject: Full Committee Markup of H.R. 1880 (Rep. Lujan Grisham), "*Albuquerque Indian School Land Transfer Act.*"

Summary of the bill

H.R. 1880 was introduced by Rep. Michelle Lujan Grisham (NM-2) on April 16, 2015. The bill would direct the Secretary of the Interior to take four tracts of land totaling 11.11 acres into trust for the benefit of nineteen (19) Pueblos[1] in the State of New Mexico. These lands were historically part of the Albuquerque Indian School site, which are culturally and historically significant to the Pueblos. Upon their transfer, the lands may be used by the 19 Pueblos for educational, health, cultural, business, and economic development purposes, except that gaming on such lands under the Indian Gaming Regulatory Act[2] is prohibited under the bill. A map of the 11.11 acres to be placed in trust is attached to this memorandum.

Cosponsors

Rep. Ben Ray Lujan (NM-3)
Rep. Stevan Pearce (NM-2)

Background

Beginning in the late 19th century, many American Indian children found themselves thrust into boarding schools during the Allotment and Assimilation policy period which lasted from 1871to1928. In 1881, the Federal Government established the Albuquerque Indian School in New Mexico. The subsequent century saw several shifts in Federal Indian policy, up to the present policy period of self-determination and self-governance (1970[3]-Present). As the nation and tribes moved into a new era, so, too, did the former Indian school. In 1969, the Bureau of Indian Affairs conveyed 11 acres of the former school to the 19 Pueblos by quitclaim deed.[4]

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[1] As defined in H.R. 1880, the 19 Pueblos include: Acoma; Cochiti; Isleta; Jemez; Laguna; Nambe; Ohkay Owingeh (San Juan); Picuris; Pojoaque; San Felipe; San Ildefonso; Sandia; Santa Ana; Santa Clara; Santo Domingo; Taos; Tesuque; Zia; and Zuni.
[2] 25 U.S.C. 2701 et seq.
[3] "The new direction of Indian policy which aimed at Indian self-determination was set forth by President Richard Nixon in a special message to Congress in July 1970." Francis Paul Prucha, *Documents of United States Indian Policy*, Third Edition, 2000, U. of Nebraska Press.
[4] See S. Rpt. 95-445 at 2.

By 1976, the Indian Pueblo Cultural Center had been completed on 11 acres of the former school site by the 19 Pueblos.[5] Eventually these 11 acres would be placed into trust in 1978 under legislation sponsored by Senator Pete Domenici and Representative Manuel Lujan.[6]

In 1981, the All Indian Pueblo Council[7] (AIPC) petitioned the BIA to transfer 44 acres of the former Indian School site into trust. In 1984, the Department of the Interior approved the trust transfer for the 19 Pueblos of New Mexico for their collective benefit.

In 2003, the AIPC again petitioned the Interior Department to place into trust 18 more acres of the former Indian School site but the Department was unable to proceed. Land-in-trust regulations[8] had been revised in 1995 in a manner that did not contemplate the placement of land in to trust for the benefit of multiple tribes collectively. In 2008, the Albuquerque Indian School Act was enacted to place the lands in trust for the benefit of the Pueblos collectively.[9]

Legislative History

As noted above, the 95th and 110th Congress enacted similar legislation for the same purpose and intent at the former Albuquerque Indian School site.[10] More recently, both Rep. Lujan Grisham and Senator Udall introduced legislation nearly identical to H.R. 1880, in the 113th Congress. The Senate bill did receive a hearing and was reported favorably out of committee but saw no further action before the end of the l13th Congress.[11]

Need for Legislation:

Since 1969, the United States has engaged in the process of converting the 1884 Albuquerque Indian School Reserve, which was the former site of the Federal Indian Boarding School. H.R. 1880 is needed to transfer in trust the 11 acres of federal land in this site for the benefit of the 19 Pueblos.

Section-by-Section Analysis of H.R. 1880

Section 1. The short title of the Act is the "Albuquerque Indian School Act".

Section 2. *Definitions*. The "19 Pueblos" means the New Mexico Indian Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh (San Juan), Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia, and Zuni. The map reference for the lands to be taken into trust is dated August 12, 2011.

[5] S. Hrg. 113-419 at 57.
[6] S. 1509 was signed into law by President Carter in February 1978, see P.L. 95-232.
[7] Composed of the Governors of the 19 Pueblos to operate the former school site land.
[8] 25 CFR Part 151.
[9] P.L. 110-453.
[10] P.L. 95-232 and P.L.110-453.
[11] S. Hrg. 113-419.

Section 3(a). Land taken into trust for benefit of 19 Pueblos. Section 3 directs the Secretary of the Interior to place into trust all right, title, and interest of the United States in and to the Federal land described for the 19 Pueblos.

Section 3(b). Description of Land. Describes the land depicted on U.S. Department of the Interior, Bureau of Land Management and Bureau of Indian Affairs map to include: An abandoned Indian School Road, 0.83 acres; Tract D, 6.18 acres; Tract 1, 0.41 acres; and Western part Tract B, 3.69 acres.

Section 3(c). Survey. Directs the Secretary to conduct a survey and correct any clerical, typographical, or surveying errors in the map.

Section 3(d). Use of Land. The lands taken into trust by the Secretary under this Act are only to be used for the educational, health, cultural, business, and economic development of the 19 Pueblos.

Section 3(e). Limitations and Conditions. Provides that the land shall remain subject to any private or municipal encumbrance, right-of-way, restriction, easement of record, or utility service agreement in effect on the date of enactment of this Act.

Section 3(f). Bureau of Indian Affairs Use. Grandfathers Bureau of Indian Affairs rights to use the lands for facilities and purposes in existence on the date of enactment of this Act. The Bureau will not incur any rental fee.

Section 4. Effect of other laws. Section 4 makes clear that the lands taken in trust shall be subject to other Federal laws relating to trust lands except that gaming under the Indian Gaming Regulatory Act is prohibited on such lands.

Support for the Legislation:

The bill has bipartisan support from the New Mexico Congressional delegation, the 19 Pueblos of New Mexico, their two corporations, the Indian Pueblo Cultural Center (IPCC) and the Indian Pueblo's Marketing (IPMI), and the Mayor of the City of Albuquerque, Richard Berry.

Administration Position:

The Bureau of Indian Affairs testified in support of the legislation at July 22, 2015 hearing on the bill.

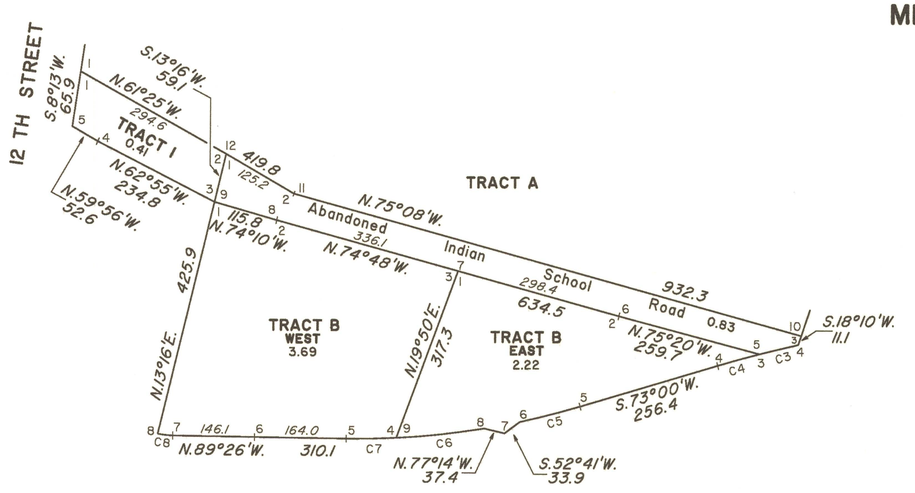
Anticipated Amendments:

None.

ORIGINAL

THE TOWN OF ALBUQUERQUE GRANT, BERNALILLO COUNTY, WITHIN TOWNSHIP 10 NORTH, RANGE 3 EAST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

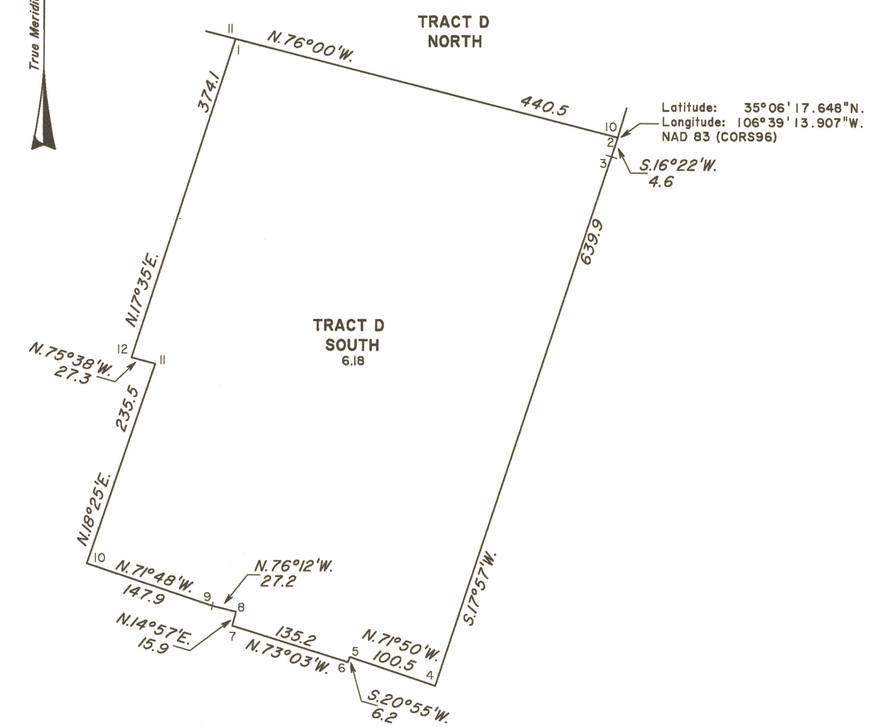
METES AND BOUNDS SURVEYS



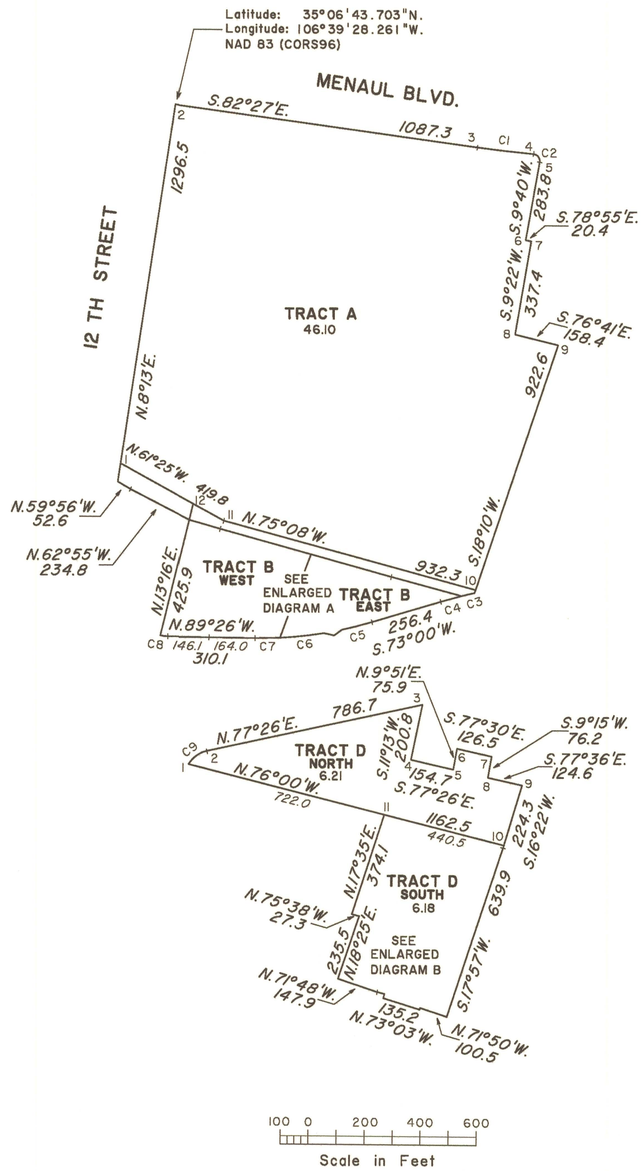
ENLARGED DIAGRAM A
NOT TO SCALE

CURVE DATA

CURVE	DELTA	RADIUS (ft.)	CHORD (ft.)	LENGTH (ft.)
C1	02°00'	5771.3	S.83°50'E. 201.6	201.6
C2	93°48'	25.0	S.37°18'E. 36.5	40.9
C3	01°24'	1960.9	S.75°59'W. 47.7	47.7
C4	02°15'	1960.9	S.74°10'W. 77.1	77.1
C5	04°37'	1381.4	S.75°18'W. 111.1	111.3
C6	06°33'	1381.4	S.83°27'W. 157.6	157.7
C7	03°42'	1381.4	S.88°34'W. 89.3	89.3
C8	12°29'	122.2	N.83°48'W. 26.6	26.6
C9	46°58'	101.6	N.53°56'E. 81.2	83.5



ENLARGED DIAGRAM B
NOT TO SCALE



100 0 200 400 600
Scale in Feet

Status of Trust Lands provided by the Bureau of Indian Affairs.

A history of surveys and additional information are contained in the field notes.

This plat represents metes and bounds surveys in the Town of Albuquerque Grant, Bernalillo County, within Township 10 North, Range 3 East, New Mexico Principal Meridian, New Mexico.

Survey executed by Richard R. Hayford, Cadastral Surveyor, beginning June 16, 2010 and completed April 28, 2011, pursuant to Special Instructions dated and approved June 9, 2010, for Group No. 1106, New Mexico.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Santa Fe, New Mexico August 12, 2011

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director

Chief Cadastral Surveyor for New Mexico

Albuquerque Indian School District Property

Land currently in trust or owned by the 19 Pueblos of New Mexico

Bill H.R. 1880 proposed land transfer