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HOUSE BILL 78

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO PUBLIC LANDS; ENACTING THE TIERRA AMARILLA  
TRADITIONAL USE LANDS MANAGEMENT AND TRANSFER ACT; REQUIRING  
SURVEYS, APPRAISALS, RESOURCE INVENTORIES AND THE DEVELOPMENT  
OF A TRADITIONAL USE RESOURCE MANAGEMENT PLAN FOR CERTAIN  
WILDLIFE MANAGEMENT AREAS; PROVIDING FOR TRADITIONAL USES OF  
CERTAIN WILDLIFE MANAGEMENT AREAS BY THE TIERRA AMARILLA LAND  
GRANT COMMUNITY, INCLUDING DISTRIBUTIONS OF HUNTING AND FISHING  
PERMITS; REQUIRING A PHASED TRANSFER OF MANAGEMENT, OWNERSHIP  
AND TITLE OF CERTAIN WILDLIFE MANAGEMENT AREAS TO THE LAND  
GRANT-MERCED DE LOS PUEBLOS DE TIERRA AMARILLA; REQUIRING  
REPORTS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Tierra Amarilla Traditional Use Lands Management  
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1 and Transfer Act".

2 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
3 Tierra Amarilla Traditional Use Lands Management and Transfer  
4 Act:

5 A. "commission" means the state game commission;

6 B. "community" means the collection of persons  
7 living on or with a legal interest in traditional use lands who  
8 are family members of members of the land grant-merced de los  
9 Pueblos de Tierra Amarilla as defined by the bylaws of the land  
10 grant-merced;

11 C. "meaningful access" means unabated ingress and  
12 egress through an existing road, trail or path or through a  
13 road, trail or path specifically established for the purpose of  
14 accessing the resources of traditional use lands and includes  
15 stream access for fishing and livestock watering. "Meaningful  
16 access" includes the use of former state road 29 by the  
17 community;

18 D. "resource inventory" means an inventory of the  
19 natural and cultural resources for an area of land and includes  
20 a listing or map of cultural or historical sites protected by  
21 state or federal law, habitat for endangered or threatened  
22 species protected by state or federal law, water resources,  
23 roadways or trails and species populations;

24 E. "traditional use" means:

25 (1) collecting, gathering or harvesting antler

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1 sheds, fuel wood, timber, rocks, soils, vegetation and  
2 vegetation products, including berries, fungi, herbs, nuts,  
3 roots or sap, for personal or community use;

4 (2) fishing, hunting, livestock grazing and  
5 use of water;

6 (3) recreation, including camping, hiking and  
7 horseback riding; and

8 (4) other traditional activities identified in  
9 a traditional use resource management plan that are beneficial  
10 to the community and support the long-term sustainable cultural  
11 and socioeconomic integrity of the community;

12 F. "traditional use lands" means lands that are  
13 within the exterior boundaries of the survey of "Land Claim #3"  
14 issued by the United States surveyor general of New Mexico  
15 submitted as part of a review of land claims pursuant to the  
16 Treaty of Guadalupe Hidalgo and confirmed by the congress of  
17 the United States in 1860 and that as of January 1, 2021 are  
18 managed by the department of game and fish for the commission  
19 in whole or in part as:

20 (1) the Edward Sargent wildlife area;

21 (2) the Bill Humphries wildlife area; and

22 (3) the Rio Chama wildlife area;

23 G. "traditional use resource management plan" means  
24 a natural resources management plan developed jointly by the  
25 commission and the land grant-merced de los Pueblos de Tierra

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1 Amarilla that permits sustainable beneficial community uses in  
2 support of the long-term cultural and socioeconomic integrity  
3 of the community; and

4 H. "Treaty of Guadalupe Hidalgo" means the Treaty  
5 of Peace, Friendship, Limits and Settlement between the United  
6 States and the Mexican Republic signed on February 2, 1848.

7 SECTION 3. [NEW MATERIAL] SURVEY, APPRAISAL AND RESOURCE  
8 INVENTORY--REPORT.--

9 A. The department of game and fish shall contract  
10 for property surveys and appraisals and develop resource  
11 inventories of the traditional use lands.

12 B. On or before November 30, 2021, the department  
13 of game and fish shall report to the appropriate interim  
14 legislative committee:

15 (1) the status or results of the property  
16 surveys, appraisals and resource inventories conducted or  
17 developed pursuant to Subsection A of this section; and

18 (2) the status of the development of a  
19 traditional use resource management plan pursuant to Section 4  
20 of the Tierra Amarilla Traditional Use Lands Management and  
21 Transfer Act.

22 SECTION 4. [NEW MATERIAL] TRADITIONAL USE RESOURCE  
23 MANAGEMENT PLAN--DEVELOPMENT--IMPLEMENTATION--REPORTS.--

24 A. On or before January 1, 2023, the commission, in  
25 cooperation with the land grant-merced de los Pueblos de Tierra

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1 Amarilla, shall develop a traditional use resource management  
2 plan for the traditional use lands.

3 B. The traditional use resource management plan  
4 developed pursuant to Subsection A of this section shall  
5 include:

6 (1) an identification of the traditional use  
7 resources, including water resources, the appropriate seasons  
8 of use and methods of harvesting and extraction of traditional  
9 use resources and the existing roads, trails and paths within  
10 the traditional use lands;

11 (2) an ingress and egress plan to provide  
12 meaningful access that may include the construction of new  
13 permanent or temporary roads, trails or paths. The plan shall  
14 also identify the process for allowing year-round access,  
15 including motorized access, to members of the community;

16 (3) a livestock grazing plan that provides  
17 annual opportunities for livestock grazing by members of the  
18 community and with consideration of the impact on forage for  
19 wildlife and management of the elk population and establishes a  
20 grazing season, stocking limits and a schedule for rotation of  
21 livestock grazing;

22 (4) a fuel wood management plan developed in  
23 consultation with the forestry division of the energy, minerals  
24 and natural resources department that provides for motorized  
25 access, including identification of required temporary roads,

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1 for annual gathering and harvesting and establishes  
2 prescriptions for no fewer than five separate collection areas  
3 within the traditional use lands. A single fuel wood  
4 collection area shall not be greater than one hundred acres.  
5 The plan shall include basal counts and the approximate cords  
6 of fuel wood available for harvesting in each collection area.  
7 Fuel wood prescriptions shall be developed with the goal of  
8 increasing the fire resiliency of the wooded areas and overall  
9 watershed health;

10 (5) designations of areas, allowable amounts  
11 and appropriate methods for rock and soil removal for  
12 traditional use;

13 (6) designations of the locations, seasons and  
14 types of recreation that shall be available within the  
15 traditional use lands for community members;

16 (7) an agreement regarding the phased transfer  
17 of management of the traditional use lands from the department  
18 of game and fish to the land grant-merced de los Pueblos de  
19 Tierra Amarilla pursuant to Section 5 of the Tierra Amarilla  
20 Traditional Use Lands Management and Transfer Act; and

21 (8) a process for distributing the hunting and  
22 fishing permits available to community members pursuant to  
23 Subsection C of Section 5 of the Tierra Amarilla Traditional  
24 Use Lands Management and Transfer Act.

25 C. From 2023 through 2027, prior to December 1 each  
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1 year the commission shall report to the appropriate interim  
2 committee regarding the implementation of the traditional use  
3 resource management plan developed pursuant to Subsection A of  
4 this section. Beginning in 2028, the land grant-merced de los  
5 Pueblos de Tierra Amarilla shall provide the reports.

6 SECTION 5. [NEW MATERIAL] TRANSFER OF MANAGEMENT--  
7 ALLOTMENT OF HUNTING AND FISHING PERMITS.--

8 A. On or before January 1, 2028, all rights, title,  
9 ownership and management authority and responsibility for the  
10 traditional use lands shall be transferred from the commission  
11 to the land grant-merced de los Pueblos de Tierra Amarilla.

12 B. On or before January 1, 2023, the commission and  
13 the land grant-merced de los Pueblos de Tierra Amarilla shall  
14 enter into an agreement to transfer management of the  
15 traditional use lands to the land grant-merced in phases and  
16 that is designed to allow for the orderly development of land  
17 management capacity by the land grant-merced and the  
18 implementation of the traditional use resource management plan  
19 developed pursuant to Section 4 of the Tierra Amarilla  
20 Traditional Use Lands Management and Transfer Act.

21 C. Beginning on January 1, 2023, hunting and  
22 fishing permits shall be allotted for the traditional use lands  
23 in the same numbers for each type and value of permit as the  
24 distributions for private lands in their respective game units  
25 and shall be distributed as follows:

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1 (1) in 2023, twenty percent of each type and  
2 value of hunting and fishing permits shall be distributed to  
3 the land grant-merced de los Pueblos de Tierra Amarilla for  
4 subsequent distribution;

5 (2) in 2024, forty percent of each type and  
6 value of hunting and fishing permits shall be distributed to  
7 the land grant-merced de los Pueblos de Tierra Amarilla for  
8 subsequent distribution;

9 (3) in 2025, sixty percent of each type and  
10 value of hunting and fishing permits shall be distributed to  
11 the land grant-merced de los Pueblos de Tierra Amarilla for  
12 subsequent distribution;

13 (4) in 2026, eighty percent of each type and  
14 value of hunting and fishing permits shall be distributed to  
15 the land grant-merced de los Pueblos de Tierra Amarilla for  
16 subsequent distribution; provided that the land grant-merced  
17 shall make twenty-five percent of the permits that are  
18 distributed to it available for purchase by general members of  
19 the public who are residents of New Mexico; and

20 (5) in 2027 and thereafter, one hundred  
21 percent of each type and value of hunting and fishing permits  
22 shall be distributed to the land grant-merced de los Pueblos de  
23 Tierra Amarilla for subsequent distribution; provided that the  
24 land grant-merced shall make forty percent of the permits that  
25 are distributed to it available for purchase by general members

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1 of the public who are residents of New Mexico.

2 D. On or before December 31, 2032 and every ten  
3 years thereafter, the land grant-merced de los Pueblos de  
4 Tierra Amarilla shall, in consultation with the commission and  
5 the forestry division of the energy, minerals and natural  
6 resources department, develop and revise the traditional use  
7 resource management plan developed pursuant to Section 4 of the  
8 Tierra Amarilla Traditional Use Lands Management and Transfer  
9 Act and shall report on the revised plan by November 30 of the  
10 subsequent year.

11 E. The traditional use lands shall become and  
12 remain part of the common lands of the land grant-merced de los  
13 Pueblos de Tierra Amarilla, and in the event the lands or a  
14 portion of the lands cease to be part of the common lands of  
15 the land grant-merced, or cease to be managed and used  
16 according to a traditional use resource management plan  
17 developed pursuant to Section 4 of the Tierra Amarilla  
18 Traditional Use Lands Management and Transfer Act or revised  
19 pursuant to Subsection D of this section, ownership of the  
20 lands or portion of the lands affected shall revert to the  
21 commission.

22 **SECTION 6. APPROPRIATION.**--Two hundred thousand dollars  
23 (\$200,000) is appropriated from the general fund to the  
24 department of game and fish for expenditure in fiscal years  
25 2022 and 2023 to implement the provisions of the Tierra

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1 Amarilla Traditional Use Lands Management and Transfer Act.  
2 Any unexpended or unencumbered balance remaining at the end of  
3 fiscal year 2023 shall revert to the general fund.

4 SECTION 7. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2021.

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