

12/15/92

ACCORD

between the

PUEBLO OF SAN ILDEFONSO, A FEDERALLY RECOGNIZED INDIAN TRIBE

and the

UNITED STATES DEPARTMENT OF ENERGY**I. PREAMBLE AND GUIDING PRINCIPLES**

This ACCORD, with an effective date of December 15, 1992, is executed between the Pueblo of San Ildefonso, a Federally recognized Indian Tribe, hereafter referred to as "the Pueblo," through its Governor, and the United States Department of Energy, an Executive Department of the United States of America, hereafter referred to as "DOE," through its Assistant Secretary on behalf of the Secretary, in order to better achieve mutual goals through an improved relationship between the parties. The Assistant Secretary has program authority for carrying out Department of Energy missions and functions authorized by the Atomic Energy Act of 1954 and has overall administrative responsibility for the Los Alamos National Laboratory. His execution of this ACCORD is binding on the Department of Energy as a whole.

This ACCORD provides the framework for a government-to-government relationship between the parties and procedures to assure implementation of that relationship.

Each party to this ACCORD respects the sovereignty of the other. Consistent with Federal laws, DOE acknowledges that the sovereign character of the Pueblo gives it the authority to

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govern and DOE recognizes and respects the continued existence of the Pueblo's government, values, and culture.

DOE has authority to enter into this ACCORD and conduct negotiations concerning issues of mutual concern with the Pueblo pursuant to Public Law 95-91 and other applicable law. The Pueblo has authority, as recognized by the United States of America, to enter into this ACCORD and conduct negotiations concerning issues of mutual concern with DOE.

DOE recognizes that a trust relationship derives from the historical relationship between the Federal government and American Indian Tribes as expressed in certain treaties and Federal Indian law.

DOE will consult with the Pueblo to assure that tribal rights, responsibilities, and concerns are addressed prior to the DOE taking actions, making decisions, or implementing programs that may affect the Pueblo.

Consistent with Federal laws, including the American Indian Religious Freedom Act (Public Law 95-341), DOE, through its Albuquerque Field Office, its Los Alamos Area Office, and other DOE organizations, including DOE Headquarters as appropriate, will consult with the Pueblo about the potential impacts of proposed actions on the Pueblo and its cultural, religious and environmental resources and will avoid unnecessary interference with traditional practices.

DOE will identify and seek to remove impediments to working directly and effectively with the Pueblo on DOE programs.

DOE will work with other Federal agencies and State and local agencies that have responsibilities related to activities at the Los Alamos National Laboratory to clarify the roles and responsibilities of such organizations which appear to be conflicting or overlapping as they relate to the Pueblo. DOE will also work with its contractors and subcontractors, including the University of California, that have, from time to time, responsibilities related to activities at the Los Alamos National Laboratory to clarify their roles and responsibilities as they relate to the Pueblo.

DOE will incorporate the principles of this ACCORD into its long-term planning and management processes.

Finally, the parties to this ACCORD share a desire for a complete understanding between DOE and the Pueblo reflecting a full government-to-government relationship and the parties will work with all elements of DOE and the Pueblo to achieve such an understanding.

II. DEFINITIONS

"ACCORD," for purposes of this ACCORD, shall mean a written agreement stating the basic understandings and commitments of the parties and describing the general framework for their working together.

"ASSISTANT SECRETARY," for purposes of this ACCORD, shall mean the DOE Assistant Secretary for Defense Programs, who is the Department of Energy's principal secretarial officer with line

management responsibility for and accountability for both DOE Headquarters and field operations related to the Los Alamos National Laboratory.

"CHARTER," for purposes of this ACCORD, is the agreement among the Pueblos of San Ildefonso, Santa Clara, Cochiti, and Jemez which governs inter-Pueblo rights and responsibilities in relation to the LOS ALAMOS-PUEBLO PROJECT.

"GOVERNOR" is the Governor of the Pueblo of San Ildefonso.

"LOS ALAMOS NATIONAL LABORATORY" is a facility of the Department of Energy, which is located in Los Alamos County, New Mexico, and which is operated by The Regents of the University of California pursuant to a contract with the Department of Energy.

"LOS ALAMOS-PUEBLO PROJECT" is the working group or team established pursuant to this ACCORD composed of authorized representatives of the Pueblos of San Ildefonso, Santa Clara, Cochiti, and Jemez and DOE.

"SECRETARY" is the Secretary of the United States Department of Energy.

"TRIBAL COUNCIL," for purposes of this ACCORD, is the Tribal Council of the Pueblo of San Ildefonso.

III. PARTIES

The parties to this ACCORD are DOE and the Pueblo.

IV. PURPOSES AND OBJECTIVES

This ACCORD formalizes the government-to-government

relationship between DOE and the Pueblo, a relationship consistent with DOE policy issued by the Secretary on November 29, 1991. This relationship respects the sovereignty of the Pueblo and affirms the trust relationship of the United States of America towards the Pueblo as a Federally recognized tribe.

This ACCORD is intended to build confidence and trust and to improve communication between the parties in the government-to-government relationship by outlining the process for implementing the relationship and by institutionalizing the relationship within the organizations represented by the parties.

This ACCORD provides the foundation and framework for developing agreements between the parties to address and resolve specific issues of mutual concern.

This ACCORD will assure that the Pueblo, through participation in the Los Alamos-Pueblo Project, has access to information which is not otherwise restricted by law and resources necessary for the Pueblo to participate meaningfully in DOE activities prior to DOE taking actions, making decisions, or implementing programs that may affect the interests of the Pueblo.

V. IMPLEMENTATION PROCESS AND RESPONSIBILITIES

The parties have established the Los Alamos-Pueblo Project to carry out the purposes and objectives of this ACCORD.

The Pueblo has already approved, or will approve in the near future, a Resolution accepting the Charter which authorizes the participation of Pueblo representatives in the Los Alamos-Pueblo Project. The Pueblo will participate in negotiations and other discussions with DOE through the Los Alamos-Pueblo Project with representatives from other Pueblos which have adopted the Charter.

The parties agree that the Los Alamos-Pueblo Project shall meet regularly to establish goals, objectives and delineation of tasks relating to implementation of the principles of this ACCORD and to identify obstacles to the achievement of those goals, objectives and tasks.

The parties agree to work toward more efficient and beneficial communications to enhance participation by the Pueblo in DOE actions, including, but not limited to, on-going activities, long-range planning, and decisions and their implementation, which may affect the interests of the Pueblo.

DOE acknowledges that meaningful Pueblo participation in DOE actions and in the Los Alamos Pueblo-Project requires access to accurate information concerning the Los Alamos National Laboratory and other related DOE activities, the resources to independently verify the validity of the information received, as well as its consequences to the Pueblo, and the resources to take actions which are necessitated by DOE actions affecting the interests of the Pueblo. DOE also acknowledges that meaningful participation requires access to monetary resources beyond that

available to the Pueblo at this time. DOE agrees to pursue funding for the Pueblo for these purposes.

The parties recognize that implementation of this ACCORD will require a comprehensive effort to educate members and officials of the Pueblo and agents, employees, contractors, and subcontractors of DOE and other interested Federal, State, and County agencies of the government-to-government relationship between DOE and the Pueblo. The parties agree to develop strategies for carrying out this educational effort.

The parties recognize that a key principle of their relationship is a requirement that individuals working to resolve issues of mutual concern are accountable to act in a manner consistent with this ACCORD. In furtherance of this principle, the Area Manager of the DOE Los Alamos Area Office shall be accountable to the Assistant Secretary, who shall, in turn, be accountable to the Secretary, for implementation of this ACCORD. Pursuant to the Charter of Pueblo members of the Los Alamos-Pueblo Project, the Pueblo representative is accountable to the Pueblo's Tribal Council and the Governor.

As a component of the system of accountability, the parties agree that the Los Alamos-Pueblo Project will review and evaluate, on an annual basis, the Los Alamos-Pueblo Project's ability to implement the government-to-government relationship and to prepare for the Secretary and the Tribal Council an annual report summarizing this evaluation.

The Secretary shall, in good faith, use his executive discretion to help implement the government-to-government relationship. The Governor shall, in good faith, use his discretion to implement the government-to-government relationship.

VI. RESERVATION OF RIGHTS

In executing this ACCORD, neither party waives any rights, including, but not limited to, treaty rights, immunities, including sovereign immunities, or jurisdictional defenses or defenses based on other laws protecting status. Neither does this ACCORD diminish any rights or protections afforded other Indian persons or entities under state or Federal law.

Except as otherwise provided herein, nothing in this ACCORD creates, nor shall be construed to create, any right of action by either party against the other.

VII. DISPUTES

While the relationship described by this ACCORD increases the ability of the parties to solve problems, it likely will not resolve all issues. Therefore, the ACCORD does not affect the right of each party to elevate any disputed issue, which is being considered by the Los Alamos-Pueblo Project, to a higher decision-making authority of another party, and to defer to that decision-making authority, including, when appropriate, to the Secretary, the Tribal Council, or the Governor.

VIII. AMENDMENT

This ACCORD may be amended by mutual written agreement between the Pueblo and DOE.

NOW, THEREFORE, the signatory parties have executed this ACCORD on the dates shown by their signatures and agreed to be duly bound by its commitments as of the effective date hereinbefore stated.

UNITED STATES DEPARTMENT OF ENERGY

BY: Richard A. ClaytorRichard A. Claytor, Assistant Secretary
for Defense ProgramsDATE: Dec. 8, 1992

PUEBLO OF SAN ILDEFONSO

BY: Agapito Martinez

Agapito Martinez, Governor

DATE: D-8-1992

APPROVED AS TO FORM:

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRSBY: Sidney Mills

Sidney Mills, Area Director

DATE: 12-11-92