

## APPENDIX A

### A HISTORY OF THE LA LUZ TRAIL RUN

#### AN "EXISTING USE AND ACTIVITY" THAT PROMOTES THE INTENT AND SPIRIT OF THE WILDERNESS ACT IN THE SANDIA MOUNTAIN WILDERNESS

##### THE BEGINNING

Since 1965, when nine runners gathered at the trailhead for the inaugural run, on the first Sunday of every August for 55 years (save one when Crest Road construction cancelled the event), runners have taken on the challenge of the La Luz Trail Run. In its modern version, from the start line down Forest Road 333 below the trailhead, the climb is nine miles and 4,600 arduous feet to the Crest. In 2001, *Trail Runner Magazine* named La Luz Trail Run as one of the "12 Most Grueling Trail Races In North America."

##### A HISTORY OF EXCELLENCE

Initially, competitors were elite runners and up-and-coming young runners. Such great champions as Jemez Pueblo runners Steve Gachupin and Al Waquie; Olympic Marathon Trials Champion Tony Sandoval; international mountain running champion Simon Gutierrez; the great Los Alamos runner Lynn Bjorklund; six-time champion Rachael Cuellar; and five-time U.S. Women's team member, four-time U.S. Champion and World Master's Champion Anita Ortiz have been overall winners for men and women. The legendary Al Waquie still holds the nine-mile course record of 1:12':14" set in 1983.

##### BUT IT IS REALLY A CITIZENS' RUN

While they add excitement to the event, it is not the elite runners who make the La Luz Trail Run special. Each August, present at the start are dozens of ordinary folks, perhaps regular runners, but often just people who have decided to take up the challenge of training for and completing this incredible event. At the start line, their nervousness and excitement, plus the enthusiastic support of their families, are contagious. The joy, pride, and often relief of these runners and their families at the top are heartwarming and gratifying. The finishers proudly wear their Finisher shirts awarded only to those completing the Run. While elite runners still compete, in many respects participation is from many walks of life and it has truly become a citizens' run.

On a personal note, had the Run taken place in 2020, 77-year-old Norm Gagne would likely have finished his 24th consecutive La Luz Trail Run.

##### GRANDFATHERED IN - AN AGREEMENT TO CONTINUE

In 1978, upon creation of the Sandia Mountain Wilderness ("SMW"), the Forest Service and the event organizers agreed to continue the La Luz Trail Run. The 1985 Land and Resource Management Plan for the SMW states:

Limit La Luz Trail Run to 400 people. Minimize impact of the run to wilderness resource and recreation experience. Start and finish run outside wilderness.

The SMW was created immediately adjacent to the State's largest metropolitan area and many large and small accommodations were made to satisfy existing stakeholders and to reduce opposition to the new Wilderness Area. The rather convoluted boundary, the Sandia Peak Tram, and existing subdivisions were specifically covered in legislation. The La Luz Trail Run was not. It was a "handshake deal," one that has lasted for 41 years.

#### AN AGREEMENT HONORED - NO IMPACT

The organizers, volunteers, and participants have scrupulously lived up to this agreement. The Albuquerque Road Runners Club ("ARR") has been the organizer since 1999.

1. Entries are capped at 400. There are always dropouts before the start and generally around 350 runners begin the Run.
2. The Run has no impact on SMW resources. The Run occurs entirely on the Trail. Three aid stations within the SMW are located at natural wide places in the Trail and have no impact on the land. Aid station volunteers are instructed to scrupulously clean their areas and to remove all supplies and trash at the completion of their duties. Organizers run down the Trail from top to bottom at the end picking up even the smallest residual trash. No additional Forest Service personnel are called into service for the Run.
3. The Run has no significant impact on the SMW recreational experience of other users. The Run starts at 7:00 a.m. and moves quickly up the Trail. While a few early bird hikers may encounter runners, the vast majority of La Luz Trail hikers start their hikes after 7:00 and see no evidence that the Run has taken place. Parking for the event is strictly limited to Tramway Road/Highway 556. There is no impact on SMW user parking.
4. The Run starts and finishes outside the SMW. With creation of the SMW in 1978, the start was moved almost two miles down FR 333 from the trailhead/SMW boundary. Runners are spread out and the pack is "shattered" before they get onto the Trail in the SMW. There is some passing on the trail but generally runners are well sorted out in their finish order by the time they enter the SMW. The finish is over a tenth of a mile outside the upper SMW boundary at the edge of the Crest parking lot.

The Run has not impacted the Wilderness resources or the recreational experience of other users. The Forest Service cites none in its denial. The 1978 agreement has never been violated; indeed the District cites no violations in its denial.

#### THE LA LUZ TRAIL RUN IS A PERMITTED EXISTING USE UNDER THE T'UF SHUR BIEN PRESERVATION TRUST AREA ACT

In 1983, the Sandia Pueblo notified the Forest Service of its claim that an 1859 survey was wrong and that a patent based on the survey issued to the Pueblo by President Abraham Lincoln

wrongly excluded 10,000 acres of their land. The area claimed by Sandia Pueblo extended to Sandia Crest, including much of the SMW and all of the La Luz Trail.

After years of negotiations, an agreement was reached between the Pueblo and the U. S. Department of Interior. The T'uf Shur Bien Preservation Trust Area Act ("Preservation Act") was introduced in the Congress to ratify the agreement on behalf of the United States as Senate Bill 2018 and became law on February 20, 2003. 16 U.S.C. 539m(1), *et seq.*

Pursuant to the Preservation Act:

'[E]xisting uses and activities' means uses and activities occurring in the Area on the date of enactment of this Act ... .

16 U.S.C. 539m(1)(A)(3)

The only activities prohibited in the SMW portion of the Preservation Area are uses that were already prohibited by the Wilderness Act as of the date of enactment. 16 U.S.C. 539m(4)(f).

On February 20, 2003, the La Luz Trail Run was an "existing use and activity" that had been continuously permitted by the Forest Service and had occurred on the La Luz Trail in the SMW portion of the Preservation Area for 25 years.

#### THE LEGISLATIVE HISTORY RECOGNIZED THE LA LUZ TRAIL RUN AS A PRE-EXISTING USE

In a report on the legislation to the Senate Committee on Energy and Natural Resources, New Mexico Senator Jeff Bingaman presented the proposed Act and additional information. Senate Report 107-285 T'uf Shur Bien Preservation Trust Area Act, September 17, 2002.

Of the thirty-two "existing uses and activities" permitted in the Preservation Area described in Senator Bingaman's report, the first two are "... *the La Luz Run (sic), running...* ." (Emphasis added) Senate Report 107-285, "Committee Amendments."

#### SANDIA PUEBLO HAS NEVER OBJECTED TO THE LA LUZ TRAIL RUN ON ITS HISTORIC AND SACRED LANDS

The dispute between the Sandia Pueblo and the Forest Service went on for 20 years before it was finally resolved. The Preservation Act culminated the long history of the dispute and resulted from extensive mediation and negotiations. It gave the Sandia Pueblo the right to consent or withhold consent to new uses and the right to consultation of modified uses of the Preservation Area. 16 U.S.C. 539(a)(3)(A) & (B).

Running and racing in areas that later became Wilderness have been important parts of the Native life for hundreds of years. The traditions continue today. See, *e.g.*, numerous examples cited in Nabakov, *Indian Running*, 1981.

The Pueblo never objected to the annual La Luz Trail Run on its ancestral and sacred lands in the SMW in the Preservation Area.

The La Luz Trail Run has never violated the 2003 agreement with the Sandia Pueblo nor the Preservation Act. The District cites none in its denial.

Throughout its history, people of color have participated and excelled in the La Luz Trail Run. Native runners such as Stephen Gachupin and Al Waquie and Hispanic runners such as Simon Gutierrez and Rachael Cuellar have stood atop the medals platform. Many ordinary runners of color have donned the Finisher shirt. The La Luz Trail Run promotes the ideals of Outdoor Equity and Outdoor F.U.T.U.R.E. recently advocated by Senator Heinrich.

“COMMERCIAL ACTIVITIES” ARE PERMITTED BY THE WILDERNESS ACT AND OCCUR REGULARLY IN WILDERNESS

As one of the grounds for denying the permit, the District states that the La Luz Trail Run is a “commercial activity” prohibited in the SMW.

The Wilderness Act prohibits “commercial enterprises ...within any wilderness area ... .” 16 U.S.C. 1131 (4)(c). No one wants a permanent vendor kiosk in a Wilderness.

But the Act allows that:

[C]ommercial *services* may be performed within the wilderness areas ... to the *extent necessary* for activities which are proper for realizing the *recreational... purposes* of the areas. (emphasis added)

16 U.S.C. 1131 (4)(d)(5)

While it stretches the ordinary meaning of the term “commercial,” the Run may technically be “commercial.”

There is an entry fee for the La Luz Trail Run. The fees cover expenses of putting on the race which is organized and conducted entirely by volunteers. If there is any money left over it is donated to charities which promote healthy outdoor activities especially for kids.

Other “commercial activities” for recreational purposes have taken place continuously in Wilderness since the 1964 Act became law. Guided hunting, backpacking, backcountry skiing and other recreational activities regularly occur in Wilderness.

“COMPETITIVE EVENTS” REGULARLY OCCUR IN WILDERNESS

As the other ground for denying the permit, the District states that the La Luz Trail Run is a “competitive event” prohibited in Wilderness Areas.

Nothing in the Act or the Code of Federal Regulations prohibits competitive events in Wilderness. The prohibition appears only in Forest Management Plans. Competitive events, human and equine, continually occur in Wilderness throughout the country; for example: the 41-year history of the competitive LLTR in the SMW, the Western States 100 and the Tevis Cup, an equine event. Those and others occur in Wilderness.

The Forest Service Management Plan's ban on all "competitive events," while intended in good faith to protect Wilderness, is a misguided prohibition.

A better test of whether any event should be allowed in Wilderness is whether it meets two criteria: 1) Does it promote the intent and spirit of the Wilderness Act? and 2) Can it be done without adverse impact to the Wilderness and to other recreational users?

For the La Luz Trail Run, the answer to both of those questions is an emphatic "Yes!"

#### THE LA LUZ TRAIL RUN EXEMPLIFIES THE INTENT AND SPIRIT OF THE WILDERNESS ACT

The Act, a landmark declaration of our country's dedication that lands set aside for Wilderness Areas:

... shall be administered for the *use and enjoyment* of the American people in such manner as will leave them *unimpaired* for future use and enjoyment as wilderness ... . (Emphasis ours)

16 U.S.C. 1131(2)(a)

... wilderness areas shall be devoted to the public purposes of *recreational*, scenic, scientific, educational, conservation and historical use. (Emphasis ours)

16 U.S.C. 1131 (4)(b)

#### "Leave No Trace!"

There is no off-trail activity and strict aid station clean-up. A final sweep of the Trail ensures that the La Luz Trail Run is truly a "leave no trace" Wilderness activity.

#### Taking Care of the Trail

For a number of years, the Albuquerque Road Runners Club performed year-round voluntary maintenance on the Trail for the District. The Club still inspects the Trail before the Run and removes downed trees and other obstacles to the benefit of all users of the Trail. There has never been any charge to the Forest Service for this volunteer effort.

#### It's All Volunteer

The La Luz Trail Run is planned, organized, and executed entirely by a dedicated group of volunteers, mostly runners, who regularly use and enjoy recreational activities including running in the SMW and in other Wilderness Areas. There are no paid personnel. It is a labor of love.

#### It's Not About Money

There are no commercial vendors at the start or at the finish. There are no cash prizes for finishers, only the coveted Finisher shirt and, for a few, an overall award or an age group medal. The

entry fees cover expenses and post-race donations to charities such as Scout Troop 17, which staffs two race aid stations, and Running 505, which promotes healthy activities among middle school students.

### No Adverse Impact

There is no adverse impact of the Run on the SMW or on its other users.

The La Luz Trail Run is for the “use and enjoyment” of all cultures and walks of life who participate in the event and it leaves the Sandia Mountain Wilderness “unimpaired for future use and enjoyment as wilderness.”

### GOOD STEWARDS

The organizers of the La Luz Trail Run have been good stewards of the Sandia Mountain Wilderness in which they have been privileged to conduct this recreational activity for forty-one years.

The La Luz Trail Run should promptly be restored to its historic place in the life and lore of New Mexico and the country.