

104TH CONGRESS  
1ST SESSION

# S. 382

To establish a Wounded Knee National Tribal Park, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, JANUARY 30), 1995

Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To establish a Wounded Knee National Tribal Park, and  
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wounded Knee Na-  
5 tional Tribal Park Establishment Act of 1995”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) in December of 1890, approximately 350 to  
9 375 Sioux men, women, and children under the lead-  
10 ership of Chief Big Foot journeyed from the Chey-

1       enne River Indian Reservation to the Pine Ridge In-  
2       dian Reservation at the invitation of Chief Red  
3       Cloud to help make peace between the non-Indians  
4       and Indians;

5               (2) the journey of Chief Big Foot and his band  
6       of Minneconjou Sioux occurred during the Ghost  
7       Dance Religion period when extreme hostility existed  
8       between Sioux Indians and non-Indians residing  
9       near the Sioux reservations, and the United States  
10      Army assumed control of the Sioux reservations;

11              (3) Chief Big Foot and his band were inter-  
12      cepted on the Pine Ridge Indian Reservation at Por-  
13      cupine Butte by Major Whitside, surrendered uncon-  
14      ditionally under a white flag of truce, and were es-  
15      corted to Wounded Knee Creek, where Colonel  
16      Forsyth assumed command;

17              (4) on December 29, 1890, an incident occurred  
18      in which soldiers under the command of General  
19      Forsyth killed and wounded over 300 members of  
20      the band of Chief Big Foot, most all of whom were  
21      unarmed and entitled to protection of their rights to  
22      property, person, and life under Federal law;

23              (5) the 1890 Wounded Knee Massacre is a his-  
24      torically significant event because the event marks

1 the last military encounter of the Indian wars period  
2 of the 19th century;

3 (6) in S. Con. Res. 153 (101st Cong., 2d  
4 Sess.), Congress apologized to the Sioux people for  
5 the 1890 Massacre;

6 (7)(A) paragraph (2) of such concurrent resolu-  
7 tion provides that Congress “expresses its support  
8 for the establishment of a suitable and appropriate  
9 Memorial to those who were so tragically slain at  
10 Wounded Knee which could inform the American  
11 public of the historic significance of the events at  
12 Wounded Knee and accurately portray the heroic  
13 and courageous campaign waged by the Sioux people  
14 to preserve and protect their lands and their way of  
15 life during this period”; and

16 (B) paragraph (3) of such concurrent resolution  
17 provides that Congress “expresses its commitment to  
18 acknowledge and learn from our history, including  
19 the Wounded Knee Massacre, in order to provide a  
20 proper foundation for building an ever more hu-  
21 mane, enlightened, and just society for the future”;

22 (8) the Wounded Knee Massacre site, and sites  
23 relating to the 1890 Wounded Knee Massacre and  
24 Ghost Dance Religion on the Cheyenne River Indian  
25 Reservation and Pine Ridge Indian Reservation, are

1 nationally significant cultural and historic sites that  
2 must be protected through the designation of the  
3 sites as a national tribal park; and

4 (9) the Wounded Knee Massacre is a nationally  
5 significant event that must be memorialized by es-  
6 tablishing suitable and appropriate memorials to the  
7 Indian victims of the Massacre, located on the Chey-  
8 enne River Indian Reservation and Pine Ridge In-  
9 dian Reservation.

10 (b) PURPOSES.—The purposes of this Act are to—

11 (1) establish the Wounded Knee National Trib-  
12 al Park consisting of—

13 (A) sites relating to the 1890 Wounded  
14 Knee Massacre and Ghost Dance Religion lo-  
15 cated on the Cheyenne River Indian Reserva-  
16 tion; and

17 (B) the 1890 Wounded Knee Massacre  
18 Site and sites relating to the Massacre and  
19 Ghost Dance Religion located on the Pine Ridge  
20 Indian Reservation;

21 (2) establish suitable and appropriate national  
22 monuments within both units of the Wounded Knee  
23 National Tribal Park to memorialize the Indian vic-  
24 tims of the 1890 Wounded Knee Massacre; and

25 (3) authorize feasibility studies to—

1 (A) establish the route of Chief Big Foot  
2 from the Cheyenne River Indian Reservation to  
3 Wounded Knee as a national historic trail; and

4 (B) establish a visitor information and ori-  
5 entation center on the Cheyenne River Indian  
6 Reservation.

7 **SEC. 3. DEFINITIONS.**

8 As used in this Act:

9 (1) COMMISSION.—The term “Commission”  
10 means the Wounded Knee National Tribal Park Ad-  
11 visory Commission established under section 8(a).

12 (2) NORTH UNIT.—The term “North Unit”  
13 means the area of the Park comprised of the sites  
14 referred to in section 2(b)(1)(A).

15 (3) PARK.—The term “Park” means the  
16 Wounded Knee National Tribal Park established  
17 under section 4.

18 (4) REAL PROPERTY.—For the purposes of this  
19 Act, the term “real property” includes lands, and all  
20 mineral rights, water rights, easements, permanent  
21 structures, and fixtures on such lands.

22 (5) SECRETARY.—The term “Secretary” means  
23 the Secretary of the Interior.

1           (6) SOUTH UNIT.—The term “South Unit”  
2 means the area of the Park comprised of the sites  
3 referred to in section 2(b)(1)(B).

4 **SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL**  
5 **TRIBAL PARK.**

6 (a) ESTABLISHMENT.—

7           (1) IN GENERAL.—The Secretary shall establish  
8 a national tribal park to be known as the “Wounded  
9 Knee National Tribal Park”, as generally described  
10 in the third alternative of the report completed by  
11 the National Park Service entitled “Draft Study of  
12 Alternatives, Environmental Assessment, Wounded  
13 Knee, South Dakota,” and dated January 1993, and  
14 as more particularly described in this Act.

15           (2) AREA INCLUDED IN PARK.—The Wounded  
16 Knee National Tribal Park shall consist of—

17           (A) a North Unit that may include—

18           (i) such sites relating to the 1890  
19 Wounded Knee Massacre and Ghost Dance  
20 Religion, including the campsite of Chief  
21 Big Foot at Deep Creek, as the Cheyenne  
22 River Sioux Tribe, in consultation with the  
23 Director of the National Park Service, con-  
24 siders necessary to include in such unit;

1 (ii) a cultural center and museum  
2 complex;

3 (iii) projects described in section  
4 9(b)(2); and

5 (iv) a suitable and appropriate na-  
6 tional monument to memorialize Chief Big  
7 Foot and his band of Minneconjou Sioux;  
8 and

9 (B) a South Unit that may include—

10 (i) the 1890 Wounded Knee Massacre  
11 site, as generally described in the 1990  
12 boundaries studies authorized by the Na-  
13 tional Park Service, and such other sites  
14 relating to the 1890 Wounded Knee Mas-  
15 sacre and Ghost Dance Religion as the Og-  
16 lala Sioux Tribe, in consultation with the  
17 Director of the National Park Service, con-  
18 sidered necessary to include in such Unit;

19 (ii) a cultural center and museum  
20 complex at or near the Wounded Knee  
21 Massacre site;

22 (iii) projects described in section  
23 9(b)(2); and

24 (iv) a suitable and appropriate na-  
25 tional monument to memorialize the Sioux

1           Indians involved in the 1890 Wounded  
2           Knee Massacre.

3           (b) COOPERATIVE AGREEMENTS.—

4           (1) IN GENERAL.—The Secretary shall enter  
5           into a cooperative agreement with each of the Chey-  
6           enne River Sioux Tribe with respect to the North  
7           Unity, and Oglala Sioux Tribe with respect to the  
8           South Unit to carry out planning, design, construc-  
9           tion, operation, maintenance, and replacement activi-  
10          ties, as appropriate, for the units.

11          (2) REQUIREMENTS FOR COOPERATIVE AGREE-  
12          MENTS.—A cooperative agreement entered into  
13          under paragraph (1) shall set forth, in a manner ac-  
14          ceptable to the Secretary—

15                (A)(i) the responsibilities of the parties re-  
16                ferred to in paragraph (1) with respect to the  
17                North Unit and the South Unit; and

18                (ii) the manner in which contracts to carry  
19                out such activities will be administered;

20                (B) the procedures and requirements for  
21                the approval and acceptance of the design of,  
22                and construction of the North Unit and South  
23                Unit;

24                (C) such Federal management policies de-  
25                scribed in the publication entitled “Management



1 Policies, U.S. Department of the Interior, Na-  
2 tional Park Service, 1988” as the Secretary  
3 considers necessary to qualify both units of the  
4 Park for affiliation;

5 (D) a general management plan for each  
6 unit of the Park that shall include plans—

7 (i) to protect and preserve the reli-  
8 gious sanctity of the Wounded Knee Mas-  
9 sacre site and other religious sites located  
10 within each unit;

11 (ii) to restore the Wounded Knee  
12 Massacre site, and other important historic  
13 sites located within the units, to the origi-  
14 nal condition of the sites at the time of the  
15 Massacre, including the removal of all  
16 buildings and structures that have no his-  
17 torical significance;

18 (iii) for the enactment of tribal zoning  
19 ordinances to protect areas surrounding  
20 each unit from commercial development  
21 and exploitation;

22 (iv) for the implementation of a con-  
23 tinuing program of public involvement, in-  
24 terpretation, and visitor education concern-

1 ing Lakota Sioux history and culture with-  
2 in each unit;

3 (v) to protect, interpret, and preserve  
4 important archaeological and paleontological  
5 sites within each unit;

6 (vi) for visitor use facilities, and the  
7 training and employing of tribal members  
8 within each unit, as provided in subsection  
9 (e); and

10 (vii) to waive or require entrance fees  
11 at the Wounded Knee Massacre site; and

12 (E) the role and responsibilities of the Ad-  
13 visory Commission established under section  
14 8(a) in relation to both units.

15 (c) TITLE.—

16 (1) PROPERTY ACQUIRED FOR THE NORTH  
17 UNIT.—Title to all real property acquired for the  
18 North Unit of the Wounded Knee National Tribal  
19 Park shall be held in trust by the United States for  
20 the Cheyenne River Sioux Tribe.

21 (2) PROPERTY ACQUIRED FOR THE SOUTH  
22 UNIT.—Title to all real property acquired in the  
23 South Unit of the Wounded Knee National Tribal  
24 Park shall be held in trust by the United States for  
25 the Oglala Sioux Tribe.

1 (d) TECHNICAL ASSISTANCE.—

2 (1) IN GENERAL.—The Secretary may provide  
3 technical assistance to the Cheyenne River Sioux  
4 Tribe and Oglala Sioux Tribe for carrying out the  
5 activities described in subsection (b)(1).

6 (2) TRAINING.—In addition to providing the as-  
7 sistance described in paragraph (1), the Secretary  
8 may train and employ members of the tribes con-  
9 cerning the operation and maintenance of both  
10 units, including training in—

11 (A) the provision of public services, man-  
12 agement of visitor use facilities, interpretation  
13 and visitor education on Sioux history and cul-  
14 ture, and artifact curation at both units; and

15 (B) the interpretation, management, pro-  
16 tection, and preservation of other historical and  
17 natural properties at both units.

18 (e) APPLICATION OF THE INDIAN SELF-DETERMINA-  
19 TION ACT.—Except as otherwise provided in this Act, the  
20 activities described in subsection (b)(1) shall be subject  
21 to the Indian Self-Determination Act (25 U.S.C. 450f et  
22 seq.).

1 **SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NA-**  
2 **TIONAL TRIBAL PARK.**

3 (a) IN GENERAL.—The Cheyenne River Sioux Tribe  
4 and Oglala Sioux Tribe may acquire by purchase from a  
5 willing seller, by gift or devise, by exchange, or in other  
6 manner—

7 (1) surface and subsurface rights to any tract  
8 of fee-patented or trust land; or

9 (2) easements that cover such lands,

10 that those tribes, in consultation with the Secretary, con-  
11 sider necessary for inclusion in the North Unit or the  
12 South Unit of the Wounded Knee National Tribal Park.

13 (b) FINANCIAL ASSISTANCE.—The Secretary may  
14 provide financial assistance to the Cheyenne River Sioux  
15 Tribe and the Oglala Sioux Tribe to acquire land and any  
16 interest in land or other real property that is necessary  
17 for a unit of the Park.

18 **SEC. 6. MANAGEMENT.**

19 (a) MANAGEMENT OF NORTH UNIT.—

20 (1) IN GENERAL.—The Cheyenne River Sioux  
21 Tribe, or a designated agency or authority of that  
22 tribe, shall operate, maintain, and manage the North  
23 Unit pursuant to the terms and conditions contained  
24 in a cooperative agreement between the Secretary  
25 and the Cheyenne River Sioux Tribe entered into by  
26 the Secretary and the tribe pursuant to section 4(b).

1           (2) EXCLUSION.—The Cheyenne River Sioux  
2 Tribe shall have no jurisdiction or authority over the  
3 South Unit.

4           (b) MANAGEMENT OF SOUTH UNIT.—

5           (1) IN GENERAL.—The Oglala Sioux Tribe, or  
6 a designated agency or authority of such tribe, shall  
7 operate, maintain, and manage the South Unit pur-  
8 suant to the terms and conditions contained in a co-  
9 operative agreement between the Secretary and the  
10 Oglala Sioux Tribe entered into by the Secretary  
11 and the tribe pursuant to section 4(b).

12           (2) EXCLUSION.—The Oglala Sioux Tribe shall  
13 have no jurisdiction or authority over the North  
14 Unit.

15 **SEC. 7. PLANNING AND DESIGN OF NATIONAL MONU-**  
16 **MENTS; FEASIBILITY STUDIES.**

17           (a) MONUMENTS.—

18           (1) IN GENERAL.—Except as provided in para-  
19 graph (2), the national monuments on the North  
20 Unit and South Unit authorized by subparagraphs  
21 (A)(iv) and (B)(iv) of section 4(a)(2) shall be  
22 planned, designed, and constructed by the Secretary,  
23 after consultation with an advisory committee that  
24 the Secretary shall appoint in consultation with—

1 (A) the Wounded Knee Survivors Associa-  
2 tion of the Cheyenne River Indian Reservation;

3 (B) the Wounded Knee Survivors Associa-  
4 tion of the Pine Ridge Indian Reservation; and

5 (C) direct descendants of the band of  
6 Minneconjou Sioux of Chief Big Foot.

7 (2) AUTHORITY OF THE CHEYENNE RIVER  
8 SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX  
9 TRIBAL COUNCIL.—(A) The Cheyenne River Sioux  
10 Tribal Council and the Oglala Sioux Tribal Council  
11 shall have no authority to plan and design the  
12 monuments referred to in paragraph (1).

13 (B) The Cheyenne River Sioux Tribal Council  
14 and the Oglala Sioux Tribal Council shall have the  
15 authority to enter into contracts for the construc-  
16 tion, operation, maintenance, and replacement of the  
17 monuments under the Indian Self-Determination Act  
18 (25 U.S.C. 450f et seq.).

19 (b) FEASIBILITY STUDIES.—

20 (1) IN GENERAL.—The Secretary shall complete  
21 feasibility studies to—

22 (A) establish and mark the route taken by  
23 Chief Big Foot and his band from the Chey-  
24 enne River Indian Reservation to Wounded  
25 Knee as a national historic trail; and

1 (B) establish a visitor information and ori-  
2 entation center on the Cheyenne River Indian  
3 Reservation.

4 (2) REPORT.—Not later than 1 year after  
5 funds are initially made available to the Secretary  
6 for a feasibility study conducted under this sub-  
7 section, the Secretary shall complete the study and  
8 submit a report that contains the findings of the  
9 study to Congress.

10 **SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVI-**  
11 **SORY COMMISSION.**

12 (a) IN GENERAL.—There is established within the  
13 Department of the Interior the Wounded Knee National  
14 Tribal Park Advisory Commission. The Commission shall  
15 advise regularly the Cheyenne River Sioux Tribe and Og-  
16 lala Sioux Tribe, or any designated agency or authority  
17 of either tribe, concerning the management and adminis-  
18 tration of the North Unit and South Unit.

19 (b) ROLE AND RESPONSIBILITIES.—The role and re-  
20 sponsibilities of the Commission shall be defined in the  
21 cooperative agreements that the Secretary shall enter into  
22 with the Cheyenne Sioux Tribe and Oglala Sioux Tribe  
23 under section 4(b). The Cheyenne River Sioux Tribe and  
24 Oglala Sioux Tribe, or any designated agency or authority

1 of either such tribe, shall consult with the Commission not  
2 less frequently than 4 times each year.

3 (c) PERIOD OF OPERATION.—The Commission shall  
4 exist for such time as either the North Unit or the South  
5 Unit is in existence.

6 (d) MEMBERSHIP.—The Secretary shall appoint 17  
7 members of the Commission. In addition, the Director of  
8 the National Park Service or a designee of the Director  
9 shall serve as an ex-officio member of the Commission.  
10 The Secretary shall appoint the members of the Commis-  
11 sion after consulting with, and soliciting a recommenda-  
12 tion from each of the following:

13 (1) The Chairman of the Cheyenne River Sioux  
14 Tribe.

15 (2) The President of the Oglala Sioux Tribe.

16 (3) The Chairman of the Wounded Knee Com-  
17 munity Council on the Pine Ridge Indian Reserva-  
18 tion.

19 (4) The Chairman of the Wounded Knee  
20 Subcommunity Council on the Pine Ridge Indian  
21 Reservation.

22 (5) The Chairman of the White Clay Commu-  
23 nity Council on the Pine Ridge Indian Reservation.

24 (6) The Chairman of District No. 3 on the  
25 Cheyenne River Indian Reservation.



1           (7) The Chairman of Red Scaffold Community  
2           on the Cheyenne River Indian Reservation.

3           (8) The Chairman of Cherry Creek Community  
4           on the Cheyenne River Reservation.

5           (9) The Chairman of Bridger Community on  
6           the Cheyenne River Reservation.

7           (10) The Chairman of the Board of Directors  
8           of the Oglala Sioux Parks and Recreation Authority.

9           (11) The President of the Wounded Knee Sur-  
10          vivors Association of the Cheyenne River Indian  
11          Reservation.

12          (12) The President of the Wounded Knee Sur-  
13          vivors Association of the Pine Ridge Indian Reserva-  
14          tion.

15          (13) The Secretary of the Smithsonian Institu-  
16          tion.

17          (14)(i) The Governor of the State of South Da-  
18          kota and the historic preservation officer of such  
19          State.

20          (ii) The Governor of the State of Nebraska and  
21          the historic preservation officer of such State.

22          (e) CHAIR.—The offices of Chairman and Vice Chair-  
23          man of the Commission shall be rotated between the  
24          Chairman of the Cheyenne River Sioux Tribe (or a des-  
25          ignated representative of the Chairman) and the President

1 of the Oglala Sioux Tribe (or a designated representative  
2 of the President) on a year-to-year basis. If both the  
3 Chairman and Vice Chairman are absent from any meet-  
4 ing, the members of the Commission who are present at  
5 the meeting shall select a member who is present to serve  
6 in the place of the Chairman for the meeting.

7 (f) MEETINGS.—The Commission shall meet at the  
8 call of the Chairman or a majority of its members. In a  
9 manner consistent with the public meeting requirements  
10 of the Federal Advisory Committee Act (5 U.S.C. App.),  
11 the Commission shall from time to time meet with persons  
12 concerned with Park issues relating to the North Unit or  
13 South Unit. The Commission shall record all minutes and  
14 resolutions of the Commission and make such records  
15 available to the public upon request.

16 (g) ADMINISTRATIVE DIRECTOR.—

17 (1) IN GENERAL.—The Secretary, in consulta-  
18 tion with the Commission, shall employ an Adminis-  
19 trative Director for the Commission and define the  
20 duties of the Administrative Director. The Adminis-  
21 trative Director shall be paid at a rate not to exceed  
22 the annual rate of basic pay payable for grade GS-  
23 12 of the General Schedule under subchapter IV of  
24 chapter 53 of title 5, United States Code, without  
25 regard to—

1 (A) the provisions of title 5, United States  
2 Code, governing appointments in the competi-  
3 tive service; and

4 (B) the provisions of chapter 51, and sub-  
5 chapter III of chapter 52 of that title relating  
6 to classification and General Schedule pay  
7 rates.

8 (2) OFFICE.—The office and staff of the Ad-  
9 ministrative Director shall be located at such loca-  
10 tion as the Secretary considers appropriate.

11 (h) SUPPORT SERVICES.—The Administrator of Gen-  
12 eral Services shall provide to the Commission, on a  
13 nonreimbursable basis, such administrative support serv-  
14 ices as the Commission, in consultation with the Secretary,  
15 may request.

16 (i) EXPENSES.—Members of the Commission who are  
17 not otherwise employed by the Federal Government, while  
18 away from their homes or regular places of business in  
19 the performance of services for the Commission, shall be  
20 allowed travel and all other related expenses, including per  
21 diem in lieu of subsistence, in the same manner as persons  
22 employed intermittently in Government service are allowed  
23 expenses under section 5703 of title 5, United States  
24 Code.

1 (j) APPLICABILITY OF FEDERAL ADVISORY ACT.—  
2 Except with respect to any requirement for reissuance of  
3 a charter, and except as otherwise provided in this Act,  
4 the provisions of the Federal Advisory Committee Act (5  
5 U.S.C. App.) shall apply to the Commission established  
6 under this Act.

7 **SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT COR-**  
8 **PORATIONS.**

9 (a) IN GENERAL.—Notwithstanding any other provi-  
10 sion of law, the Cheyenne River Sioux Tribe and the Og-  
11 lala Sioux Tribe, or a designated agency or authority of  
12 either tribe, may, with the approval of the Secretary, enter  
13 into an agreement with a nonprofit corporation to raise  
14 funds from private sources to be used in lieu of, or supple-  
15 ment, any Federal funds made available by appropriations  
16 pursuant to the authorization under section 11.

17 (b) NEW PROJECTS.—The Cheyenne River Sioux  
18 Tribe and the Oglala Sioux Tribe, or a designated agency  
19 or authority of either tribe, shall have the power and au-  
20 thority to enter into a separate agreement with a nonprofit  
21 corporation to—

22 (1) raise funds from private sources to pay for  
23 all obligations, costs, and fees for professional serv-  
24 ices contracted, incurred, or assumed by the tribe, or  
25 a designated agency or authority of the tribe, that

1 are related, directly or indirectly, to the development  
2 or establishment of the Park; and

3 (2) raise funds from private sources to plan, de-  
4 sign, construct, operate, maintain, and replace—

5 (A) an international amphitheater dedi-  
6 cated to the Indigenous Peoples of the Americas  
7 to be located at or near the Wounded Knee  
8 Massacre site, which, if constructed, shall be-  
9 come the permanent home of the Francis Jan-  
10 sen sculpture; and

11 (B) any other project that the Cheyenne  
12 River Sioux Tribe or the Oglala Sioux Tribe  
13 may, in consultation with the Secretary, choose  
14 to include within the North Unit or South Unit.

15 **SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.**

16 The appropriate official of any Federal entity that  
17 conducts or supports activities that directly affect the  
18 Park shall consult with the Secretary and the Cheyenne  
19 River Sioux Tribe and the Oglala Sioux Tribe with respect  
20 to such activities to minimize any adverse effects on the  
21 Park.

22 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums  
24 as may be necessary to carry out this Act.

1 **SEC. 12. RULE OF STATUTORY CONSTRUCTION.**

2       Nothing contained in this Act is intended to abrogate,  
3 modify, or impair any rights or claims of the Cheyenne  
4 River Sioux Tribe or Oglala Sioux Tribe, that are based  
5 on any treaty, Executive order, agreement, Act of Con-  
6 gress, or other legal basis.

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