

106TH CONGRESS
2D SESSION

S. 2102

To provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2000

Mr. INOUE (for himself, Mrs. FEINSTEIN, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, 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 “Timbisha Shoshone
5 Homeland Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Since time immemorial, the Timbisha Sho-
9 shone Tribe has lived in portions of California and

1 Nevada. The Tribe's ancestral homeland includes the
2 area that now comprises Death Valley National Park
3 and other areas of California and Nevada now ad-
4 ministered by the Bureau of Land Management.

5 (2) Since 1936, the Tribe has lived and gov-
6 erned the affairs of the Tribe on approximately 40
7 acres of land near Furnace Creek in the Park.

8 (3) The Tribe achieved Federal recognition in
9 1983 but does not have a land base within the
10 Tribe's ancestral homeland.

11 (4) Since the Tribe commenced use and occu-
12 pancy of the Furnace Creek area, the Tribe's mem-
13 bership has grown. Tribal members have a desire
14 and need for housing, government and administra-
15 tive facilities, cultural facilities, and sustainable eco-
16 nomic development to provide decent, safe, and
17 healthy conditions for themselves and their families.

18 (5) The interests of both the Tribe and the Na-
19 tional Park Service would be enhanced by recog-
20 nizing their coexistence on the same land and by es-
21 tablishing partnerships for compatible land uses and
22 for the interpretation of the Tribe's history and cul-
23 ture for visitors to the Park.

24 (6) The interests of both the Tribe and the
25 United States would be enhanced by the establish-

1 ment of a land base for the Tribe and by further de-
2 lineation of the rights and obligations of each with
3 respect to the Furnace Creek area and to the Park
4 as a whole.

5 **SEC. 3. PURPOSES.**

6 Consistent with the recommendations of the report
7 required by section 705(b) of the California Desert Protec-
8 tion Act of 1994 (Public Law 103–433; 108 Stat. 4498),
9 the purposes of this Act are—

10 (1) to provide in trust to the Tribe land on
11 which the Tribe can live permanently and govern the
12 Tribe’s affairs in a modern community within the
13 ancestral homeland of the Tribe outside and within
14 the Park;

15 (2) to formally recognize the contributions by
16 the Tribe to the history, culture, and ecology of the
17 Park and surrounding area;

18 (3) to ensure that the resources within the Park
19 are protected and enhanced by—

20 (A) cooperative activities within the Tribe’s
21 ancestral homeland; and

22 (B) partnerships between the Tribe and
23 the National Park Service and partnerships in-
24 volving the Bureau of Land Management;

1 (4) to ensure that such activities are not in
2 derogation of the purposes and values for which the
3 Park was established;

4 (5) to provide opportunities for a richer visitor
5 experience at the Park through direct interactions
6 between visitors and the Tribe including guided
7 tours, interpretation, and the establishment of a
8 tribal museum and cultural center;

9 (6) to provide appropriate opportunities for eco-
10 nomicallly viable and ecologically sustainable visitor-
11 related development, by the Tribe within the Park,
12 that is not in derogation of the purposes and values
13 for which the Park was established; and

14 (7) to provide trust lands for the Tribe in 4
15 separate parcels of land that is now managed by the
16 Bureau of Land Management and authorize the pur-
17 chase of 2 parcels now held in private ownership to
18 be taken into trust for the Tribe.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **PARK.**—The term “Park” means Death
22 Valley National Park, including any additions to
23 that Park.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior or the designee of the
3 Secretary.

4 (3) TRIBAL.—The term “tribal” means of or
5 pertaining to the Tribe.

6 (4) TRIBE.—The term “Tribe” means the
7 Timbisha Shoshone Tribe, a tribe of American Indi-
8 ans recognized by the United States pursuant to
9 part 83 of title 25, Code of Federal Regulations (or
10 any corresponding similar regulation or ruling).

11 (5) TRUST LANDS.—The term “trust lands”
12 means those lands taken into trust pursuant to this
13 Act.

14 **SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE TIMBISHA**
15 **SHOSHONE HOMELAND.**

16 (a) IN GENERAL.—Subject to valid existing rights
17 (existing on the date of enactment of this Act), all right,
18 title, and interest of the United States in and to the lands,
19 including improvements and appurtenances, described in
20 subsection (b) are declared to be held in trust by the
21 United States for the benefit of the Tribe. All maps re-
22 ferred to in subsection (b) shall be on file and available
23 for public inspection in the appropriate offices of the Na-
24 tional Park Service and the Bureau of Land Management.

1 (b) PARK LANDS AND BUREAU OF LAND MANAGE-
2 MENT LANDS DESCRIBED.—

3 (1) IN GENERAL.—The following lands shall be
4 held in trust for the Tribe pursuant to subsection
5 (a):

6 (A) Furnace Creek, Death Valley National
7 Park, California, an area of approximately 300
8 acres for community development, residential
9 development, historic restoration, and visitor-re-
10 lated economic development, as generally de-
11 picted on the map entitled “Community Devel-
12 opment at Furnace Creek, Death Valley Na-
13 tional Park”, numbered Map #1 and dated De-
14 cember 3, 1999. This area shall include a 25-
15 acre, nondevelopment zone at the north end of
16 the area and an Adobe Restoration zone con-
17 taining several historic adobe homes, which
18 shall be managed by the Tribe as a tribal his-
19 toric district.

20 (B) Death Valley Junction, California, an
21 area of approximately 1,000 acres, as generally
22 depicted on the map entitled “Death Valley
23 Junction, California”, numbered Map #2 and
24 dated December 3, 1999.

1 (C) Centennial, California, an area of ap-
2 proximately 640 acres, as generally depicted on
3 the map entitled “Centennial, California”, num-
4 bered Map #3 and dated December 3, 1999.

5 (D) Scotty’s Junction, Nevada, an area of
6 approximately 2,800 acres, as generally de-
7 picted on the map entitled “Scotty’s Junction,
8 Nevada”, numbered Map #4 and dated Decem-
9 ber 3, 1999.

10 (E) Lida, Nevada, Community Parcel, an
11 area of approximately 2,800 acres, as generally
12 depicted on the map entitled “Lida, Nevada,
13 Community Parcel”, numbered Map #5 and
14 dated December 3, 1999.

15 (2) LIMITATIONS ON FURNACE CREEK AREA
16 DEVELOPMENT.—

17 (A) DEVELOPMENT.—Recognizing the mu-
18 tual interests and responsibilities of the Tribe
19 and the National Park Service in and for the
20 conservation and protection of the resources in
21 the area described in paragraph (1), develop-
22 ment in the area shall be limited to—

23 (i) for purposes of community and
24 residential development—

1 (I) a maximum of 50 single-fam-
2 ily residences; and

3 (II) a tribal community center
4 with space for tribal offices, recreation
5 facilities, a multipurpose room and
6 kitchen, and senior and youth facili-
7 ties;

8 (ii) for purposes of economic
9 development—

10 (I) a small-to-moderate desert
11 inn; and

12 (II) a tribal museum and cultural
13 center with a gift shop; and

14 (iii) the infrastructure necessary to
15 support the level of development described
16 in clauses (i) and (ii).

17 (B) EXCEPTION.—Notwithstanding the
18 provisions of subparagraph (A)(ii), the National
19 Park Service and the Tribe are authorized to
20 negotiate mutually agreed upon, visitor-related
21 economic development in lieu of the develop-
22 ment set forth in that subparagraph if such al-
23 ternative development will have no greater envi-
24 ronmental impact than the development set
25 forth in that subparagraph.

1 (C) RIGHT-OF-WAY.—The Tribe shall have
2 a right-of-way for ingress and egress on High-
3 way 190 in California.

4 (3) LIMITATIONS ON IMPACT ON MINING
5 CLAIMS.—Nothing in this Act shall be construed as
6 terminating any valid mining claim existing on the
7 date of enactment of this Act on the land described
8 in paragraph (1)(E). Any person with such an exist-
9 ing mining claim shall have all the rights incident to
10 mining claims, including the rights of ingress and
11 egress on the land described in paragraph (1)(E).
12 Any person with such an existing mining claim shall
13 have the right to occupy and use so much of the sur-
14 face of the land as is required for all purposes rea-
15 sonably necessary to mine and remove the minerals
16 from the land, including the removal of timber for
17 mining purposes. Such a mining claim shall termi-
18 nate when the claim is determined to be invalid or
19 is abandoned.

20 (c) LEGAL DESCRIPTIONS.—Not later than 1 year
21 after the date of enactment of this Act, the Secretary shall
22 file a legal description of the areas described in subsection
23 (b) with the Committee on Resources of the House of Rep-
24 resentatives and with the Committee on Indian Affairs
25 and the Committee on Energy and Natural Resources of

1 the Senate. Such legal description shall have the same
2 force and effect as if the information contained in the de-
3 scription were included in that subsection except that the
4 Secretary may correct clerical and typographical errors in
5 such legal description and in the maps referred to in the
6 legal description. The legal description shall be on file and
7 available for public inspection in the offices of the Na-
8 tional Park Service and the Bureau of Land Management.

9 (d) **ADDITIONAL TRUST RESOURCES.**—The Sec-
10 retary may purchase from willing sellers the following par-
11 cels and appurtenant water rights, or the water rights sep-
12 arately, to be taken into trust for the Tribe:

13 (1) Indian Rancheria Site, California, an area
14 of approximately 120 acres, as generally depicted on
15 the map entitled “Indian Rancheria Site, California”
16 numbered ____ and dated _____.

17 (2) Lida Ranch, Nevada, an area of approxi-
18 mately 2,340 acres, as generally depicted on the
19 map entitled “Lida Ranch” numbered ____ and
20 dated _____, or another parcel mutually
21 agreed upon by the Secretary and the Tribe.

22 (e) **SPECIAL USE AREAS.**—

23 (1) **IN GENERAL.**—The National Park Service
24 and the Bureau of Land Management are authorized
25 to designate the areas described in this subsection as

1 nonexclusive special use areas for the Tribe, subject
2 to other Federal law. Members of the Tribe are au-
3 thorized to use these areas for low impact, eco-
4 logically sustainable, traditional practices pursuant
5 to a jointly established management plan mutually
6 agreed upon by the Tribe, and by the National Park
7 Service or the Bureau of Land Management, as ap-
8 propriate. All maps referred to in paragraph (4)
9 shall be on file and available for public inspection in
10 the offices of the National Park Service and Bureau
11 of Land Management.

12 (2) RECOGNITION OF THE HISTORY AND CUL-
13 TURE OF THE TRIBE.—In the special use areas, in
14 recognition of the significant contributions the Tribe
15 has made to the history, ecology, and culture of the
16 Park and to ensure that the visitor experience in the
17 Park will be enhanced by the increased and contin-
18 ued presence of the Tribe, the Secretary shall permit
19 the Tribe’s continued use of Park resources for tra-
20 ditional tribal purposes, practices, and activities.

21 (3) RESOURCE USE BY THE TRIBE.—In the
22 special use areas, any use of Park resources by the
23 Tribe for traditional purposes, practices, and activi-
24 ties shall not be in derogation of purposes and val-
25 ues for which the Park was established.

1 (4) SPECIFIC AREAS.—The following areas are
2 designated special use areas pursuant to paragraph
3 (1):

4 (A) MESQUITE USE AREA.—The area gen-
5 erally depicted on the map entitled “Mesquite
6 Use Area” numbered ____ and dated
7 _____. The Tribe may use this area for
8 processing mesquite using traditional plant
9 management techniques such as thinning, prun-
10 ing, harvesting, removing excess sand, and re-
11 moving exotic species. The National Park Serv-
12 ice may limit and condition, but not to prohibit
13 entirely, public use of this area or parts of this
14 area, in consultation with the Tribe. This area
15 shall be managed in accordance with the jointly
16 established management plan referred to in
17 paragraph (1).

18 (B) BUFFER AREA.—An area of approxi-
19 mately ____ acres, as generally depicted on the
20 map entitled “Buffer Area” numbered ____
21 and dated _____. The National Park
22 Service shall restrict visitor use of this area to
23 protect the privacy of the Tribe and to provide
24 an opportunity for the Tribe to conduct commu-

1 nity affairs without undue disruption from the
2 public.

3 (C) TIMBISHA SHOSHONE NATURAL AND
4 CULTURAL PRESERVATION AREA.—An area that
5 primarily consists of Park lands and also a
6 small portion of Bureau of Land Management
7 land in California, as generally depicted on the
8 map entitled “Timbisha Shoshone Natural and
9 Cultural Preservation Area” numbered ____
10 and dated _____.

11 (5) ADDITIONAL PROVISIONS.—With respect to
12 the Timbisha Shoshone Natural and Cultural Pres-
13 ervation Area designated in paragraph (4)(C)—

14 (A) the Tribe may establish and maintain
15 a tribal resource management field office, ga-
16 rage, and storage area, all within the area of
17 the existing ranger station at Wildrose (existing
18 as of the date of enactment of this Act);

19 (B) the Tribe also may use traditional
20 camps for tribal members at Wildrose and
21 Hunter Mountain in accordance with the jointly
22 established management plan referred to in
23 paragraph (1);

1 (C) the area shall be depicted on maps of
2 the Park and Bureau of Land Management
3 that are provided for general visitor use;

4 (D) the National Park Service and the Bu-
5 reau of Land Management shall accommodate
6 access by the Tribe to and use by the Tribe
7 of—

8 (i) the area (including portions de-
9 scribed in subparagraph (E)) for tradi-
10 tional cultural and religious activities, in a
11 manner consistent with the purpose and
12 intent of Public Law 95–341 (commonly
13 known as the “American Indian Religious
14 Freedom Act”) (42 U.S.C. 1996 et seq.);
15 and

16 (ii) areas designated as wilderness (in-
17 cluding portions described in subparagraph
18 (E)), in a manner consistent with the pur-
19 pose and intent of the Wilderness Act (16
20 U.S.C. 1131 et seq.); and

21 (E)(i) on the request of the Tribe, the Na-
22 tional Park Service and the Bureau of Land
23 Management shall temporarily close to the gen-
24 eral public, 1 or more specific portions of the
25 area in order to protect the privacy of tribal

1 members engaging in traditional cultural and
2 religious activities in those portions; and

3 (ii) any such closure shall be made in a
4 manner that affects the smallest practicable
5 area for the minimum period necessary for the
6 purposes described in clause (i).

7 (f) ACCESS AND USE.—Members of the Tribe shall
8 have the right to enter and use the Park without payment
9 of any fee for admission into the Park.

10 (g) ADMINISTRATION.—The trust lands shall con-
11 stitute the Timbisha Shoshone Reservation and shall be
12 administered pursuant to the laws and regulations appli-
13 cable to other Indian trust lands, except as otherwise pro-
14 vided in this Act.

15 **SEC. 6. IMPLEMENTATION PROCESS.**

16 (a) GOVERNMENT-TO-GOVERNMENT AGREE-
17 MENTS.—In order to fulfill the purposes of this Act and
18 to establish cooperative partnerships for purposes of this
19 Act, the National Park Service, the Bureau of Land Man-
20 agement, and the Tribe shall enter into government-to-
21 government consultations and shall develop protocols to
22 review planned development in the Park. The National
23 Park Service and the Bureau of Land Management are
24 authorized to enter into cooperative agreements with the
25 Tribe for the purpose of providing training on the inter-

1 pretation, management, protection, and preservation of
2 the natural and cultural resources of the areas designated
3 for special uses by the Tribe in section 5(e)(4).

4 (b) STANDARDS.—The National Park Service and the
5 Tribe shall develop mutually agreed upon standards for
6 size, impact, and design for use in planning, resource pro-
7 tection, and development of the Furnace Creek area and
8 for the facilities at Wildrose. The standards shall be based
9 on standards for recognized best practices for environ-
10 mental sustainability and shall not be less restrictive than
11 the environmental standards applied within the National
12 Park System at any given time. Development in the area
13 shall be conducted in a manner consistent with the stand-
14 ards, which shall be reviewed periodically and revised as
15 necessary.

16 **SEC. 7. MISCELLANEOUS PROVISIONS.**

17 (a) TRIBAL EMPLOYMENT.—In employing individuals
18 to perform any construction, maintenance, interpretation,
19 or other service in the Park, the Secretary shall, insofar
20 as practicable, give first preference to qualified members
21 of the Tribe.

22 (b) GAMING.—Gaming as defined and regulated by
23 the Indian Gaming Regulatory Act (25 U.S.C. 2701 et
24 seq.) shall be prohibited on trust lands within the Park.

1 (c) INITIAL RESERVATION.—Lands taken into trust
2 for the Tribe pursuant to section 5(a) shall be considered
3 to be the Tribe’s initial reservation for purposes of section
4 20(b)(1)(B)(ii) of the Indian Gaming Regulatory Act (25
5 U.S.C. 2719(b)(1)(B)(ii)).

6 (d) TRIBAL JURISDICTION OVER TRUST LANDS.—All
7 trust lands located within California shall be exempt from
8 section 1162 of title 18, United States Code, and section
9 1360 of title 28, United States Code, commencing 3 years
10 after the date of enactment of this Act.

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

○