

Calendar No. 312

111TH CONGRESS
2^D SESSION

S. 443

[Report No. 111-161]

To transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2009

Mrs. MURRAY (for herself and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

MARCH 10, 2010

Reported by Mr. DORGAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, 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 “Hoh Indian Tribe Safe
5 Homelands Act”.

1 **SEC. 2. FINDINGS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Hoh Indian Reservation, located along
4 the Hoh River and the Pacific Ocean in a remote
5 section of Jefferson County, Washington, is the
6 homeland of the Hoh Indian Tribe, a federally rec-
7 ognized Indian tribe.

8 (2) Established by Executive Order in 1893,
9 the Reservation is approximately one square mile,
10 but its habitable acreage has been reduced over time
11 due to storm surges, repeated flooding and erosion,
12 and lack of river dredging.

13 (3) Due to its location along the river and
14 ocean and frequent torrential rains, 90 percent of
15 the Reservation is located within a flood zone and,
16 in fact, has flooded repeatedly over the last five
17 years. In addition, 100 percent of the Reservation is
18 within a tsunami zone, leaving most of the Reserva-
19 tion unfit for safe occupation.

20 (4) The Tribe has repeatedly suffered from seri-
21 ous flood and wind damage to homes, tribal build-
22 ings, and utility infrastructure that have caused sig-
23 nificant damage and resulted in critical safety and
24 environmental hazards.

25 (5) Federal agencies such as the Bureau of In-
26 dian Affairs, the Department of Housing and Urban

1 Development, and the Federal Emergency Manage-
2 ment Agency have limited authority to assist the
3 Tribe with housing and other improvements and
4 services due to the dangerous and unsustainable lo-
5 cation of the Reservation.

6 (6) The Tribe has purchased from private own-
7 ers near the Reservation approximately 260 acres of
8 land in order to move key infrastructure out of the
9 flood zone.

10 (7) In addition, the State of Washington's De-
11 partment of Natural Resources has transferred own-
12 ership of 160 acres of land to the Tribe.

13 (8) An approximately 37 acre parcel of logged
14 land, administered by the National Park Service, lies
15 between the current Reservation land and those
16 lands acquired by the Tribe, and the only road ac-
17 cessing the Reservation crosses this parcel.

18 (9) Together, the lands described in paragraphs
19 6, 7, and 8 would constitute a contiguous parcel for
20 the Reservation and would create a safe area for
21 members of the Tribe to live and rebuild their com-
22 munity.

23 **SEC. 3. DEFINITIONS.**

24 For the purposes of this Act—

1 (1) the term “Federal land” mean the Federal
2 lands described in section 4(e)(2);

3 (2) the term “Reservation” means the reserva-
4 tion of the Hoh Indian Tribe;

5 (3) the term “Secretary” means the Secretary
6 of the Interior; and

7 (4) the term “Tribe” means the Hoh Indian
8 Tribe, a federally recognized Indian tribe.

9 **SEC. 4. TRANSFER OF LANDS TO BE HELD IN TRUST AS**
10 **PART OF THE TRIBE’S RESERVATION; PLACE-**
11 **MENT OF OTHER LAND INTO TRUST.**

12 (a) **IN GENERAL.**—The Secretary shall transfer to
13 the Tribe all right, title, and interest of the United States
14 in and to the Federal land. Such land shall be held in
15 trust by the United States for the benefit of the Tribe.
16 Such land shall be excluded from the boundaries of Olym-
17 pie National Park. At the request of the Tribe, at the time
18 of transfer of the Federal land, the Secretary shall also
19 place into trust for the benefit of the Tribe the non-Fed-
20 eral land owned by the Tribe and described in subsection
21 (e)(1).

22 (b) **RESERVATION.**—Land taken into trust for the
23 Tribe pursuant to subsection (a) shall be part of the Res-
24 ervation

1 (c) DESCRIPTION OF LANDS.—The land to be trans-
2 ferred and held in trust under subsection (a) is the land
3 generally depicted on the map titled “H.R. _____ Hoh
4 Indian Tribe Safe Homelands Act”, and dated
5 _____ and further described as—

6 (1) the non-Federal land owned by the Hoh
7 Tribe; and

8 (2) the Federal land administered by the Na-
9 tional Park Service, located in Section 20, Township
10 26N, Range 13W, W.M. South of the Hoh River.

11 (d) AVAILABILITY OF MAP.—Not later than 120 days
12 after the completion of the land transfer of Federal land
13 under this section, the Secretary shall make the map avail-
14 able to the appropriate agency officials and congressional
15 committees. The map shall be available for public inspec-
16 tion in the appropriate offices of the Secretary.

17 (e) CONGRESSIONAL INTENT.—It is the intent of
18 Congress that—

19 (1) the condition of the Federal land at the
20 time of the transfer under this section should be pre-
21 served and protected;

22 (2) that the natural environment existing on
23 the Federal land at the time of the transfer under
24 this section should not be altered, except as de-
25 scribed in this Act; and

1 (3) the Tribe and the National Park Service
2 shall work cooperatively on issues of mutual concern
3 related to this Act.

4 **SEC. 5. PRESERVATION OF EXISTING CONDITION OF FED-**
5 **ERAL LAND; TERMS OF CONSERVATION AND**
6 **USE IN CONNECTION WITH LAND TRANSFER.**

7 (a) **RESTRICTIONS ON USE.**—The use of the Federal
8 land transferred pursuant to section 4 is subject to the
9 following conditions:

10 (1) No commercial, residential, industrial, or
11 other buildings or structures shall be placed on the
12 Federal land being transferred and placed into trust.
13 The existing road may be maintained or improved,
14 but no major improvements or road construction
15 shall occur on the lands.

16 (2) In order to maintain its use as a natural
17 wildlife corridor and to provide for protection of ex-
18 isting resources, no logging or hunting shall be al-
19 lowed on the land.

20 (3) The Tribe may authorize tribal members to
21 engage in ceremonial and other treaty uses of these
22 lands and existing tribal treaty rights are not dimin-
23 ished by this Act.

1 (4) The Tribe shall survey the boundaries of
2 the Federal land and submit the survey to the Na-
3 tional Park Service for review and concurrence.

4 (b) COOPERATIVE EFFORTS.—Congress urges the
5 Secretary and the Tribe to enter into written agreements
6 on the following:

7 (1) Upon completion of the Tribe's proposed
8 emergency fire response building, Congress urges the
9 parties to work toward mutual aid agreements.

10 (2) The National Park Service and the Tribe
11 shall work collaboratively to provide opportunities
12 for the public to learn more about the culture and
13 traditions of the Tribe.

14 (3) The land may be used for the development
15 of a multi-purpose, non-motorized trail from High-
16 way 101 to the Pacific Ocean. The parties agree to
17 work cooperatively in the development and place-
18 ment of such trail.

19 **SEC. 6. HOH INDIAN RESERVATION.**

20 All lands taken into trust by the United States under
21 this Act shall be a part of the Hoh Indian Reservation.

22 **SEC. 7. GAMING PROHIBITION.**

23 No land taken into trust for the benefit of the Hoh
24 Indian Tribe under this Act shall be considered Indian

1 lands for the purpose of the Indian Gaming Regulatory
 2 Act (~~25 U.S.C. 2701~~ et seq.).

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Hoh Indian Tribe Safe*
 5 *Homelands Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *FEDERAL LAND.*—*The term “Federal land”*
 9 *means the approximately 37-acre parcel of land—*

10 (A) *administered by the National Park*
 11 *Service;*

12 (B) *located in sec. 20, T. 26N, R. 13W,*
 13 *W.M., south of the Hoh River; and*

14 (C) *depicted on the Map.*

15 (2) *MAP.*—*The term “Map” means the map enti-*
 16 *tled “Hoh Indian Tribe Safe Homelands Act Land*
 17 *Acquisition Map” and dated May 14, 2009.*

18 (3) *NON-FEDERAL LAND.*—*The term “non-Fed-*
 19 *eral land” means the approximately 434 acres of*
 20 *land—*

21 (A) *owned by the Tribe; and*

22 (B) *depicted on the Map.*

23 (4) *SECRETARY.*—*The term “Secretary” means*
 24 *the Secretary of the Interior.*

1 (5) *TRIBE*.—The term “Tribe” means the Hoh
2 *Indian Tribe.*

3 **SEC. 3. LAND TAKEN INTO TRUST FOR BENEFIT OF TRIBE.**

4 (a) *FEDERAL LAND*.—

5 (1) *IN GENERAL*.—Effective beginning on the
6 date of enactment of this Act—

7 (A) all right, title, and interest of the
8 United States in and to the Federal land are
9 considered to be held in trust by the United
10 States for the benefit of the Tribe, without any
11 action required to be taken by the Secretary; and

12 (B) the Federal land shall be excluded from
13 the boundaries of Olympic National Park.

14 (2) *SURVEY BY TRIBE*.—

15 (A) *IN GENERAL*.—The Tribe shall—

16 (i) conduct a survey of the boundaries
17 of the Federal land; and

18 (ii) submit the survey to the Director
19 of the National Park Service for review and
20 concurrence.

21 (B) *ACTION BY DIRECTOR*.—Not later than
22 90 days after the date on which the survey is
23 submitted under subparagraph (A)(ii), the Di-
24 rector of the National Park Service shall—

1 (i) complete the review of the survey;

2 and

3 (ii) provide to the Tribe a notice of
4 concurrence with the survey.

5 (C) AVAILABILITY OF SURVEY.—Not later
6 than 120 days after the date on which the notice
7 of concurrence is provided to the Tribe under
8 subparagraph (B)(ii), the Secretary shall—

9 (i) submit a copy of the survey to the
10 appropriate committees of Congress; and

11 (ii) make the survey available for pub-
12 lic inspection at the appropriate office of
13 the Secretary.

14 (b) NON-FEDERAL LAND.—

15 (1) IN GENERAL.—On fulfillment of each condi-
16 tion described in paragraph (2), the Secretary shall
17 take the non-Federal land into trust for the benefit of
18 the Tribe.

19 (2) CONDITIONS.—The conditions referred to in
20 paragraph (1) are that—

21 (A) the Secretary shall conduct an assess-
22 ment of the nature and extent of the liabilities
23 and potential liabilities resulting from hazardous
24 substances or other environmental risks associ-
25 ated with the non-Federal land; and

1 (B) *the Tribe shall—*

2 (i) *convey to the Secretary all right,*
3 *title, and interest in and to the non-Federal*
4 *land;*

5 (ii) *submit to the Secretary a request*
6 *to take the non-Federal land into trust for*
7 *the Tribe; and*

8 (iii) *carry out such activities as are*
9 *necessary to remediate any liability or po-*
10 *tential liability assessed under subpara-*
11 *graph (A).*

12 (c) *CONGRESSIONAL INTENT.—It is the intent of Con-*
13 *gress that—*

14 (1) *the condition of the Federal land as in exist-*
15 *ence on the date of enactment of this Act should be*
16 *preserved and protected;*

17 (2) *the natural environment existing on the Fed-*
18 *eral land on the date of enactment of this Act should*
19 *not be altered, except as otherwise provided by this*
20 *Act; and*

21 (3) *the Tribe and the National Park Service*
22 *should work cooperatively regarding issues of mutual*
23 *concern relating to this Act.*

24 (d) *AVAILABILITY OF MAP.—As soon as practicable*
25 *after the date of enactment of this Act, the Secretary shall*

1 *make the Map available for public inspection at the appro-*
 2 *priate office of the Secretary.*

3 **SEC. 4. USE OF FEDERAL LAND BY TRIBE; COOPERATIVE EF-**
 4 **FORTS.**

5 *(a) USE OF FEDERAL LAND BY TRIBE.—*

6 *(1) RESTRICTIONS ON USE.—The use of the Fed-*
 7 *eral land by the Tribe shall be subject to the following*
 8 *conditions:*

9 *(A) BUILDINGS AND STRUCTURES.—No*
 10 *commercial, residential, industrial, or other*
 11 *building or structure shall be constructed on the*
 12 *Federal land.*

13 *(B) NATURAL CONDITION AND ENVIRON-*
 14 *MENT.—The Tribe—*

15 *(i) shall preserve and protect the condi-*
 16 *tion of the Federal land as in existence on*
 17 *the date of enactment of this Act; and*

18 *(ii) shall not carry out any activity*
 19 *that would adversely affect the natural envi-*
 20 *ronment of the Federal land, except as oth-*
 21 *erwise provided by this Act.*

22 *(C) LOGGING AND HUNTING.—To maintain*
 23 *use of the Federal land as a natural wildlife cor-*
 24 *ridor and provide for protection of existing re-*

1 sources of the Federal land, no logging or hunt-
2 ing shall be allowed on the Federal land.

3 (D) ROADS.—

4 (i) ROUTINE MAINTENANCE.—Routine
5 maintenance may be conducted on the 2-
6 lane county road that crosses the Federal
7 land as in existence on the date of enact-
8 ment of this Act.

9 (ii) EXPANSION.—The county road de-
10 scribed in clause (i) may not be widened or
11 otherwise expanded.

12 (iii) RECONSTRUCTION.—If the county
13 road described in clause (i) is compromised
14 due to a flood or other natural or unex-
15 pected occurrence, the county road may be
16 reconstructed to ensure access to relevant
17 areas.

18 (iv) OTHER ACCESS ROUTES.—Except
19 as provided in clause (iii) and subsection
20 (b)(2), no other road or access route shall be
21 permitted on the Federal land.

22 (2) USES APPROVED BY TREATY.—

23 (A) IN GENERAL.—The Tribe may authorize
24 any member of the Tribe to use the Federal land
25 for—

- 1 (i) ceremonial purposes; or
2 (ii) any other activity approved by a
3 treaty between the United States and the
4 Tribe.

5 (B) NO EFFECT ON TREATY RIGHTS OF
6 TRIBE.—Nothing in this Act affects any treaty
7 right of the Tribe in existence on the date of en-
8 actment of this Act.

9 (b) COOPERATIVE EFFORTS.—The Secretary and the
10 Tribe—

11 (1) shall enter into cooperative agreements—

12 (A) for joint provision of emergency fire
13 aid, on completion of the proposed emergency
14 fire response building of the Tribe; and

15 (B) to provide opportunities for the public
16 to learn more regarding the culture and tradi-
17 tions of the Tribe;

18 (2) may develop and establish on land taken into
19 trust for the benefit of the Tribe pursuant to this Act
20 a multipurpose, nonmotorized trail from Highway
21 101 to the Pacific Ocean; and

22 (3) shall work cooperatively on any other issues
23 of mutual concern relating to land taken into trust
24 for the benefit of the Tribe pursuant to this Act.

1 **SEC. 5. TREATMENT OF TRUST LAND AS PART OF RESERVA-**
2 **TION.**

3 *All land taken into trust for the benefit of the Tribe*
4 *pursuant to this Act shall be a part of the reservation of*
5 *the Tribe.*

6 **SEC. 6. GAMING PROHIBITION.**

7 *The Tribe may not conduct on any land taken into*
8 *trust pursuant to this Act any gaming activities—*

9 *(1) as a matter of claimed inherent authority; or*

10 *(2) under any Federal law (including the Indian*
11 *Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (in-*
12 *cluding any regulations promulgated by the Secretary*
13 *or the National Indian Gaming Commission pursu-*
14 *ant to that Act)).*

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111TH CONGRESS
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[Report No. 111-1611]

A BILL

To transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

MARCH 10, 2010

Reported with an amendment