

113TH CONGRESS
2D SESSION

S. 2442

To direct the Secretary of the Interior to take certain land and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important land into trust for the benefit of the Northern Cheyenne Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2014

Mr. WALSH (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To direct the Secretary of the Interior to take certain land and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important land into trust for the benefit of the Northern Cheyenne 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 “Northern Cheyenne
5 Lands Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Northern Cheyenne Tribe has depended
2 on the land of the Tribe and the land-based re-
3 sources of the Tribe to support its way of life since
4 time immemorial;

5 (2) the Tribe has made supreme and historic
6 sacrifices to repossess and maintain the homeland of
7 the Tribe, including the Reservation of the Tribe in
8 the State of Montana;

9 (3) the Tribe suffers from tremendous social
10 and economic challenges, including a lack of employ-
11 ment opportunities on the Reservation, which can be
12 improved by strengthening the control of the Tribe
13 over the land base, natural resources, and trust
14 funds of the Tribe;

15 (4) the Tribe seeks a variety of resolutions to
16 outstanding legal obstacles that have prevented the
17 Tribe from consolidating subsurface and surface
18 trust ownership on the Reservation;

19 (5) the Tribe and the members of the Tribe are
20 the beneficial owners of more than 95 percent of the
21 surface land of the Reservation and all but approxi-
22 mately 5,000 subsurface acres of the Reservation;

23 (6) the Tribe seeks to obtain ownership of ap-
24 proximately 5,000 subsurface acres on the Reserva-
25 tion that the Tribe does not own as a result of an

1 error made by the United States when the Reserva-
2 tion was expanded in 1900;

3 (7) in 2002, the Tribe agreed by settlement to
4 dismiss a lawsuit against the United States which
5 alleged that the United States failed to protect the
6 Reservation from the impacts of coal development in
7 return for assistance in securing tribal ownership of
8 the subsurface rights described in paragraph (6)
9 substantially in the form of this Act, and to secure
10 mitigation funding to address the impacts of coal de-
11 velopment in areas adjacent to the Reservation,
12 among other conditions;

13 (8) to increase tribal ownership of the surface
14 land, the Tribe has purchased approximately 932
15 acres of land within the Reservation that were, for
16 various reasons, taken out of trust ownership status;

17 (9) the Tribe has purchased approximately 635
18 acres of land near Bear Butte, South Dakota, which
19 the Tribe considers sacred ground for the members
20 of the Tribe, as well as for members of other Indian
21 tribes;

22 (10) the Tribe seeks to have the land and sub-
23 surface within the Reservation and the Bear Butte
24 land described in this section taken into trust by the
25 United States for the benefit of the Tribe;

1 (11) the Tribe seeks clarification, consistent
2 with the 1999 settlement with the United States,
3 that the principal of the funds arising from the
4 Northern Cheyenne Indian Reserved Water Rights
5 Settlement Act of 1992 (Public Law 102–374; 106
6 Stat. 1186; 108 Stat. 707), the earnings from which
7 are paid to the Tribe and managed as the “Northern
8 Cheyenne Trust Fund” by the Office of Special
9 Trustee, may be transferred to the Northern Chey-
10 enne Tribe Permanent Fund, which has historically
11 provided strong returns to the Tribe in direct sup-
12 port of tribal self-determination and to offset limited
13 Federal funding of important tribal governmental
14 services; and

15 (12) if the conveyances of land and funds au-
16 thorized under this Act are carried out, the Tribe
17 has agreed to waive all legal claims against the
18 United States arising out of the longstanding loss of
19 the subsurface rights and the management of the
20 Northern Cheyenne Trust Fund by the United
21 States.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) **FUND.**—The term “Fund” means the
25 Northern Cheyenne Trust Fund identified in the

1 June 7, 1999 Agreement Settling Certain Issues Re-
2 relating to the Tongue River Dam Project, which was
3 entered into by the Tribe, the State, and delegates
4 of the Secretary, and managed by the Office of Spe-
5 cial Trustee in the Department of the Interior.

6 (2) GREAT NORTHERN PROPERTIES.—The term
7 “Great Northern Properties” means the Great
8 Northern Properties Limited Partnership, which is a
9 Delaware limited partnership.

10 (3) PERMANENT FUND.—The term “Permanent
11 Fund” means the Northern Cheyenne Tribe Perma-
12 nent Fund managed by the Tribe pursuant to the
13 Plan for Investment, Management and Use of the
14 Fund, as amended by vote of the tribal membership
15 on November 2, 2010.

16 (4) RESERVATION.—The term “Reservation”
17 means the Northern Cheyenne Reservation.

18 (5) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (6) STATE.—The term “State” means the State
21 of Montana.

22 (7) TRIBE.—The term “Tribe” means the
23 Northern Cheyenne Tribe.

1 **SEC. 4. TRIBAL FEE LAND TO BE TAKEN INTO TRUST.**

2 Not later than 60 days after the date of enactment
3 of this Act, the Secretary shall take into trust for the ben-
4 efit of the Tribe the approximately 1,567 acres of land
5 depicted on—

6 (1) the map entitled “Northern Cheyenne
7 Lands Act – Fee-to-Trust Lands” and dated April
8 22, 2014; and

9 (2) the map entitled “Northern Cheyenne
10 Lands Act – Fee-to-Trust Lands – Lame Deer
11 Townsite” and dated April 22, 2014.

12 **SEC. 5. MINERAL RIGHTS TO BE TAKEN INTO TRUST.**

13 (a) COMPLETION OF MINERAL CONVEYANCES.—

14 (1) IN GENERAL.—Not later than 60 days after
15 the date on which the Secretary receives the notifica-
16 tion described in subsection (c), in a single trans-
17 action—

18 (A) Great Northern Properties shall convey
19 to the Tribe all right, title, and interest of
20 Great Northern Properties, consisting of coal
21 and iron ore mineral interests, underlying the
22 land on the Reservation generally depicted as
23 “Great Northern Properties” on the map enti-
24 tled “Northern Cheyenne Land Act – Coal
25 Tracts” and dated April 22, 2014; and

1 (B) subject to paragraph (2), the Secretary
2 shall convey to Great Northern Properties all
3 right, title, and interest of the United States in
4 and to the coal mineral interests underlying the
5 land generally depicted as “Bull Mountains”
6 and “East Fork” on the map entitled “North-
7 ern Cheyenne Federal Tracts” and dated April
8 22, 2014.

9 (2) REQUIREMENT.—The Secretary shall en-
10 sure that the deed for the conveyance authorized by
11 paragraph (1)(B) shall include a covenant running
12 with the land that—

13 (A) precludes the coal conveyed from being
14 mined by any method other than underground
15 mining techniques—

16 (i) until any surface owner (as defined
17 in section 714(e) of Public Law 95–87 (30
18 U.S.C. 1304(e))) for a specific tract has
19 provided to Great Northern Properties
20 written consent to enter the specific tract
21 and commence surface mining; and

22 (ii) except as determined to be accept-
23 able for further consideration for leasing in
24 the document of the Bureau of Land Man-
25 agement entitled “Billings Resource Area

1 Final EIS and Resource Management
2 Plan” and dated September 1984; and

3 (B) shall not create any property interest
4 in the United States or any surface owner (as
5 defined in section 714(e) of Public Law 95–87
6 (30 U.S.C. 1304(e))).

7 (b) TREATMENT OF LAND TRANSFERRED TO
8 TRIBE.—

9 (1) IN GENERAL.—At the request of the Tribe,
10 the Secretary shall take into trust for the benefit of
11 the Tribe the mineral interests conveyed to the Tribe
12 under subsection (a)(1)(A).

13 (2) NO STATE TAXATION.—The mineral inter-
14 ests conveyed to the Tribe under subsection
15 (a)(1)(A) shall not be subject to taxation by the
16 State (including any political subdivision of the
17 State).

18 (c) REVENUE SHARING AGREEMENT.—The Tribe
19 shall notify the Secretary, in writing, that—

20 (1) consistent with a settlement agreement en-
21 tered into between the Tribe and the State in 2002,
22 the Tribe and Great Northern Properties have
23 agreed on a formula for sharing revenue from devel-
24 opment of the mineral interests described in sub-

1 section (a)(1)(B) if those mineral interests are devel-
2 oped;

3 (2) the revenue sharing agreement remains in
4 effect as of the date of enactment of this Act; and

5 (3) Great Northern Properties has offered to
6 convey the mineral interests described in subsection
7 (a)(1)(A) to the Tribe.

8 (d) WAIVER OF LEGAL CLAIMS.—As a condition of
9 the conveyances of mineral interests under subsection
10 (a)(1)—

11 (1) the Tribe shall waive any and all claims re-
12 lating to the failure of the United States to acquire
13 and take into trust on behalf of the Tribe the min-
14 eral interests described in subsection (a)(1)(A), as
15 directed by Congress in 1900; and

16 (2) Great Northern Properties shall waive any
17 and all claims against the United States relating to
18 the value of the coal mineral interests described in
19 subsection (a)(1)(B).

20 (e) RESCISSION OF MINERAL CONVEYANCES.—If any
21 portion of the mineral interests conveyed under subsection
22 (a)(1) is invalidated by final judgment of a court of the
23 United States—

24 (1) not later than 1 year after the date on
25 which the final judgment is rendered, the Secretary

1 or Great Northern Properties may agree to rescind
2 the conveyances under subsection (a)(1); and

3 (2) if the conveyances are rescinded under
4 paragraph (1), the waivers under subsection (d)
5 shall no longer apply.

6 **SEC. 6. TRANSFER OF NORTHERN CHEYENNE TRUST FUND**
7 **TO TRIBE.**

8 (a) IN GENERAL.—Not later than 30 days after the
9 date of enactment of this Act, all amounts in the Fund
10 shall be deposited in the Permanent Fund.

11 (b) USE OF AMOUNTS.—Of the amounts transferred
12 to the Permanent Fund under subsection (a)—

13 (1) the portion that is attributable to the prin-
14 cipal of the Fund shall be maintained in perpetuity;
15 and

16 (2) any interest earned on the amounts de-
17 scribed in paragraph (1) shall be used in the same
18 manner as interest earned on amounts in the Per-
19 manent Fund may be used.

20 (c) WAIVER OF LEGAL CLAIMS.—As a condition of
21 the transfer under subsection (a), the Tribe shall waive
22 any and all claims arising from the management of the
23 Fund by the United States.

1 **SEC. 7. LAND CONSOLIDATION AND FRACTIONATION RE-**
2 **PORTING.**

3 (a) INVENTORY.—

4 (1) IN GENERAL.—The Secretary, in consulta-
5 tion with the Tribe, shall prepare an inventory of
6 fractionated land interests held by the United States
7 in trust for the benefit of—

8 (A) the Tribe; or

9 (B) individual Indians on the Reservation.

10 (2) AGRICULTURAL PURPOSES.—The inventory
11 prepared by the Secretary under this subsection
12 shall include details currently available about
13 fractionated land on the Reservation suitable for ag-
14 ricultural purposes.

15 (3) SUBMISSION.—The Secretary shall submit
16 the inventory prepared under this subsection to the
17 Committee on Indian Affairs of the Senate and the
18 Committee on Natural Resources of the House of
19 Representatives by not later than 180 days after the
20 date of enactment of this Act.

21 (b) REPORT.—

22 (1) IN GENERAL.—The Secretary, in consulta-
23 tion with the Tribe, shall prepare periodic reports
24 regarding obstacles to consolidating trust land own-
25 ership on the Reservation.

1 (2) CONTENTS.—The reports under this sub-
2 section shall include—

3 (A) a description of existing obstacles to
4 consolidating trust land ownership, including
5 the extent of fractionation;

6 (B) a description of progress achieved by
7 the Tribe toward reducing fractionation and in-
8 creasing trust land ownership;

9 (C) an analysis of progress achieved by the
10 Tribe toward making agricultural use economi-
11 cal on trust land; and

12 (D) any applicable outcomes and lessons
13 learned from land consolidation activities under-
14 taken pursuant to the Indian Land Consolida-
15 tion Act (25 U.S.C. 2201 et seq.).

16 (3) SUBMISSION.—The Secretary shall submit
17 the reports under this subsection to the Committee
18 on Indian Affairs of the Senate and the Committee
19 on Natural Resources of the House of Representa-
20 tives not less frequently than once each calendar
21 year for the 5-year period beginning on the date of
22 enactment of this Act.

23 **SEC. 8. ELIGIBILITY FOR OTHER FEDERAL BENEFITS.**

24 The transfer under section 6 shall not result in the
25 reduction or denial of any Federal service, benefit, or pro-

1 gram to the Tribe or to any member of the Tribe to which
2 the Tribe or member is entitled or eligible because of—

3 (1) the status of the Tribe as a federally recog-
4 nized Indian tribe; or

5 (2) the status of the member as a member of
6 the Tribe.

7 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to carry out
9 this Act such sums as are necessary.

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