

103^D CONGRESS
2^D SESSION

H. R. 4653

To settle Indian land claims within the State of Connecticut, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1994

Mr. GEJDENSON introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To settle Indian land claims within the State of Connecticut, 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 “Mohegan Nation of
5 Connecticut Land Claims Settlement Act of 1994”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
7 **POLICY.**

8 Congress finds and declares that—

9 (1) the Mohegan Tribe of Indians of Connecti-
10 cut is a successor in interest to the aboriginal entity

1 known as the Mohegan Indian Tribe which has ex-
2 isted in the State of Connecticut from time immemo-
3 rial and for which certain lands were sequestered as
4 tribal lands by the Colony and State of Connecticut;

5 (2) there is pending before the United States
6 District Court for the Southern District of Connecti-
7 cut a lawsuit by the Mohegan Indian Tribe which in-
8 volves certain lands within the State of Connecticut;

9 (3) the pendency of the lawsuit may result in
10 economic hardships for residents of the State of
11 Connecticut by clouding the titles to lands in the
12 State, including lands not now involved in the law-
13 suit;

14 (4) the State of Connecticut and the Mohegan
15 Tribe have executed agreements for the purposes of
16 resolving all disputes between them and settling the
17 lawsuit, which agreements require implementing leg-
18 islation by the Congress of the United States;

19 (5) in the agreements described above, the par-
20 ties provide for the assumption by the State of Con-
21 necticut of criminal jurisdiction over the members of
22 the Mohegan Tribe and on its lands and to the sub-
23 mission of all gaming-related development to the
24 State of Connecticut State Traffic Commission; and

1 (6) Congress shares with the parties to such
2 agreements a desire to settle all Mohegan Indian
3 claims in the State of Connecticut and to remove all
4 clouds on titles resulting from such lawsuits.

5 **SEC. 3. DEFINITIONS.**

6 For purposes of this Act, the term—

7 (1) “Mohegan Tribe” means the Mohegan
8 Tribe of Indians of Connecticut, a tribe of American
9 Indians recognized by the United States pursuant to
10 25 C.F.R. 83 and by the State of Connecticut pur-
11 suant to Connecticut General Statutes sections 47–
12 59 (a) and (b) and further described in section 2(a);

13 (2) “State of Connecticut” means the State of
14 Connecticut, its agencies, political subdivisions, con-
15 stitutional officers, officials of its agencies and sub-
16 divisions;

17 (3) “Secretary” means the Secretary of the
18 Interior;

19 (4) “Lands or natural resources” means any
20 real property or natural resources, or any interest in
21 or right involving any real property or natural re-
22 sources including, but not limited to, minerals and
23 mineral rights, timber and timber rights, water and
24 water rights, and rights to hunt and fish;

1 (5) “Lawsuit” means the action in the United
2 States District Court for the District of Connecticut,
3 entitled “Mohegan Tribe of Indians of Connecticut
4 v. State of Connecticut, et al., Case No. H77-434;

5 (6) “Agreement” means that document entitled
6 “Agreement between the Mohegan Tribe and the
7 State of Connecticut” executed on April 25, 1994,
8 by the Governor of the State of Connecticut and the
9 Chief of the Mohegan Tribe, and filed with the Sec-
10 retary of State of the State of Connecticut; and

11 (7) “Transfer” includes, but is not limited to,
12 any sale, grant, lease, allotment, partition, or con-
13 veyance, any transaction the purpose of which was
14 to effect a sale, grant, lease, allotment, partition, or
15 conveyance, or any event or events that resulted in
16 a change of possession or control of lands or natural
17 resources.

18 **SEC. 4. FINDINGS BY THE SECRETARY.**

19 Section 5 of this Act shall not take effect until the
20 following events have occurred and the Secretary so
21 finds—

22 (1) the Governor of the State of Connecticut
23 has entered into a binding compact with the Mohe-
24 gan Tribe providing for tribal gaming operations, in-
25 cluding class III gaming in accordance with the In-

1 dian Gaming Regulatory Act (25 U.S.C. 2701 et
2 seq.) and the compact has received all the Federal
3 approvals required to be fully effective; and

4 (2) the United States has accepted in trust for
5 the Mohegan Tribe the lands the Tribe has des-
6 ignated for including in their initial Reservation as
7 described in Exhibit B to the Agreement.

8 **SEC. 5. APPROVAL OF PRIOR TRANSFERS AND EXTIN-**
9 **GUISHMENT OF CLAIMS AND ABORIGINAL**
10 **TITLE INVOLVING THE MOHEGAN TRIBE.**

11 (a) If the Secretary finds that the conditions set forth
12 in section 4 of this Act have been satisfied, he shall publish
13 such findings and the Agreement in the Federal Register,
14 and upon such publication:

15 (1) The transfers, waivers, releases,
16 relinquishments, and other commitments made by
17 the Mohegan Tribe in paragraph (1) of its Agree-
18 ment with the State of Connecticut shall be of full
19 force and effect on the terms and conditions therein
20 stated.

21 (2) The transfers, waivers, releases,
22 relinquishments, and other commitments validated
23 by paragraph (1) of the Agreement and of this sec-
24 tion and the transfers and extinguishments approved
25 and validated by subsection (b)(1) and (2) shall be

1 deemed to have been made in accordance with the
2 United States Constitution and all laws of the Unit-
3 ed States that are specifically applicable to transfers
4 of lands or natural resources from, by, or on behalf
5 of any Indian, Indian nation, or tribe of Indians (in-
6 cluding but not limited to the Trade and Intercourse
7 Act of 1790, Act of July 22, 1790, ch. 33, sec. 4,
8 1 Stat. 137, and any amendments thereto and all
9 subsequent versions thereof), and Congress does
10 hereby approve any such transfers effective as of the
11 date of said transfers.

12 (b)(1) All claims to lands within the State of Con-
13 necticut based upon aboriginal title by the Mohegan Tribe,
14 or any predecessor or successor in interest, are hereby ex-
15 tinguished, as are any and all other claims the Mohegan
16 Tribe might have to any public or private lands or natural
17 resources in Connecticut, such as claims or rights based
18 on recognized title, including but not limited to—

19 (A) any claim the Mohegan Tribe might have to
20 the tribal sequestered lands bounded out to the
21 Tribe in 1684, consisting of some 20,480 acres lying
22 between the Thames River, New London bounds,
23 Norwich bounds, and Colchester bounds;

24 (B) any claim the Mohegan Tribe might have
25 based on a survey under the authority of the Con-

1 necticut General Assembly in 1736 of lands reserved
2 and sequestered by the General Assembly for the
3 sole use and improvement of the Mohegan Indian
4 Tribe; and

5 (C) any claim the Mohegan Tribe might have
6 based on any action by the State in 1860, 1861, or
7 otherwise to allot, reallot, and/or confirm any lands
8 of the Mohegan Tribe to individual Indians or other
9 persons. Any transfer of lands or natural resources
10 located anywhere within the State of Connecticut in-
11 cluding, but not limited to, transfers pursuant to the
12 statute or treaty of or with any State or the United
13 States, by, from, or on behalf of the Mohegan Tribe,
14 or any predecessor or successor in interest, shall be
15 deemed to be in full force and effect, as provided in
16 subsection (a)(2): *Provided, however,* That nothing
17 herein shall be construed as extinguishing any ab-
18 original right, title, interest, or claim to lands or
19 natural resources solely to the extent of the rights
20 or interests defined as “excepted interests” in para-
21 graph 1a of the Agreement between the Mohegan
22 Tribe and the State of Connecticut, agreed to April
23 25, 1994.

24 (2) By virtue of the approval of a transfer of lands
25 or natural resources effected by this section, or an extin-

1 guishment of aboriginal title effected thereby, all claims
2 against the United States, any State or subdivision there-
3 of, or any other person or entity, by the Mohegan Tribe,
4 arising subsequent to the transfer and based upon any in-
5 terest in or right involving the claims described in para-
6 graph (1) above in lands or natural resources, including,
7 but not limited to, claims for trespass damages or claims
8 for use and occupancy, shall be regarded as extinguished
9 as of the date of the transfer, provided that this limitation
10 shall not apply to any interest in lands or natural re-
11 sources subsequently and lawfully acquired by the Mohe-
12 gan Tribe or its members.

13 (c) No provision of this section shall be construed to
14 offset or eliminate the personal claim of any individual In-
15 dian which is pursued under any law of general applicabil-
16 ity that protects Indians as well as non-Indians.

17 **SEC. 6. TRANSFER OF LANDS TO THE MOHEGAN TRIBE.**

18 (a) The Secretary of the Interior is authorized and
19 directed to accept the transfer to the United States of the
20 lands described in exhibits A and B of the agreement be-
21 tween the State of Connecticut and the Mohegan tribe to
22 be held in trust for the use and benefit of the Mohegan
23 Tribe of Indians of Connecticut as an Indian reservation,
24 notwithstanding the existence of any clouds on title or any
25 liens agreed to by the Tribe.

1 (b) The lands transferred to the United States in
2 trust for the Mohegan Tribe under subsection (a) shall
3 be subject to the laws of the United States relating to In-
4 dian lands, including section 177 of this title.

5 **SEC. 7. STATE JURISDICTION OVER RESERVATION.**

6 (a) Notwithstanding other provisions of Federal law,
7 including but not limited to 25 U.S.C. 1312–1326, the
8 Mohegan Tribe of Indians agrees to and consents to the
9 assumption by the State of Connecticut of criminal juris-
10 diction over the Mohegan tribal members and all Indians
11 on land or other natural resources presently owned by the
12 Tribe, or which are included in any Federal legislation re-
13 lating to Mohegan tribe land claims, or any annexation
14 thereto and any other land that may now or hereafter be
15 owned by or held in trust for said Tribe or its members.
16 Such criminal jurisdiction shall extend to the criminal laws
17 of the State of Connecticut and to the criminal jurisdiction
18 of the courts of the State of Connecticut to the same ex-
19 tent as such criminal law jurisdiction and criminal court
20 jurisdiction which empower the State with respect to any
21 other person or lands or other natural resources within
22 and subject to the jurisdiction of the State of Connecticut.
23 The Congress consents to this assumption of criminal ju-
24 risdiction by the State of Connecticut.

1 (b) Notwithstanding other provisions of Federal law,
2 including but not limited to 25 U.S.C. sections 1321–
3 1326, the Mohegan Tribe of Indians agrees to and con-
4 sents to the assumption of jurisdiction by the State of
5 Connecticut State Traffic Commission over all gaming-re-
6 lated traffic control matters to the same extent as the
7 State Traffic Commission has jurisdiction over traffic con-
8 trol within the State of Connecticut as set out in chapter
9 249 of the Connecticut General Statutes, sections 14–297
10 to 14–314C. The Congress consents to this assumption
11 of traffic control jurisdiction by the State of Connecticut.

12 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**
13 **CONNECTICUT.**

14 Except as expressly provided herein, this Act shall
15 constitute a general discharge and release of all obliga-
16 tions of the State of Connecticut and all of its political
17 subdivisions, agencies, departments, and all of the officers
18 or employees thereof arising from any treaty or agreement
19 with, or on behalf of the Tribe of the United States as
20 trustee therefor.

21 **SEC. 9. REVOCATION OF AGREEMENT.**

22 In the event the Agreement between the Mohegan
23 Tribe and the State of Connecticut is invalidated, or if
24 the gaming compact provided in section 4(a) of this Act,
25 or any implementing agreements between the parties

1 thereto, is invalidated by a court of competent jurisdiction,
2 the transfers, waivers, releases, relinquishments and other
3 commitments made by the Mohegan Tribe in paragraph
4 1a of the Agreement shall no longer be of any force or
5 effect, section 5 of this Act shall be inapplicable to the
6 lands, interests in lands or natural resources of the Mohe-
7 gan Tribe and its members as if never enacted, and the
8 approvals of prior transfers and the extinguishment of
9 claims and aboriginal title of the Mohegan Tribe otherwise
10 effected by section 5 shall be void ab initio. In any such
11 event, the Mohegan Tribe shall have the right to reinstate
12 its land claim within a reasonable time, which period shall
13 be defined as the later of 6 months after the Mohegan
14 Tribe receives written notice of such determination, or if
15 appealed, 6 months after entry of judgment by the court
16 of last resort, and, if the suit is reinstated within that
17 time, no defense, such as laches, statute of limitations, law
18 of the case, res judicata, or prior disposition shall be as-
19 serted based on the withdrawal of the lawsuit and com-
20 mencement of the resumed litigation, nor shall the sub-
21 stance of discussions leading to the Agreement be admissi-
22 ble in any subsequent litigation: *Provided, however,* That
23 if any such suit is reinstated, any defense which would
24 have been available to the State of Connecticut at the time
25 the lawsuit was withdrawn may be asserted, and is not

1 waived by anything in the Agreement or by subsequent
2 events occurring between the withdrawal of the lawsuit
3 and commencement of the resumed litigation.

4 **SEC. 10. JUDICIAL REVIEW.**

5 Notwithstanding any other provision of law, any ac-
6 tion to contest the constitutionality of this Act or the va-
7 lidity of any agreement entered into under the authority
8 of this Act or approved by this Act shall be barred unless
9 the complaint is filed within 180 days after _____. Exclu-
10 sive jurisdiction over any such action is hereby vested in
11 the United States District Court for the District of
12 Connecticut.

13 **SEC. 11. JUNE 16, 1994, AGREEMENT.**

14 Notwithstanding any other provision of law—

15 (1) the Mohegan Tribe is authorized to make
16 payments to the town of Montville according to the
17 terms of the Tribe's June 16, 1994, agreement with
18 the town, subject to modification by mutual agree-
19 ment of the parties; and

20 (2) the Secretary of the Interior is authorized
21 and directed to approve that agreement, thereby giv-
22 ing full force and effect to its provisions, and to ap-
23 prove future modifications mutually agreed to by the
24 parties.

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