

Union Calendar No. 265

112TH CONGRESS
2^D SESSION

H. R. 1162

[Report No. 112–387]

To provide the Quileute Indian Tribe Tsunami and Flood Protection, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

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

FEBRUARY 3, 2012

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on March 17, 2011]

A BILL

To provide the Quileute Indian Tribe Tsunami and Flood
Protection, 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. OLYMPIC NATIONAL PARK — QUILEUTE TRIBE.**

4 *(a) DEFINITIONS.—In this section:*

5 *(1) MAP.—The term “Map” means the map enti-*
 6 *tled “Olympic National Park and Quileute Reserva-*
 7 *tion Boundary Adjustment Map”, numbered 149/*
 8 *80,059, and dated June 2010.*

9 *(2) PARK.—The term “Park” means the Olympic*
 10 *National Park, located in the State of Washington.*

11 *(3) RESERVATION.—The term “Reservation”*
 12 *means the Quileute Indian Reservation, located on the*
 13 *Olympic Peninsula in the State of Washington.*

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

16 *(5) TRIBE.—The term “Tribe” means the*
 17 *Quileute Indian Tribe in the State of Washington.*

18 *(b) FINDINGS AND PURPOSE.—*

19 *(1) FINDINGS.—Congress finds that—*

20 *(A) the Reservation is located on the west-*
 21 *ern coast of the Olympic Peninsula in the State*
 22 *of Washington, bordered by the Pacific Ocean to*
 23 *the west and the Park on the north, south, and*
 24 *east;*

1 (B) most of the Reservation village of La
2 Push is located within the coastal flood plain,
3 with the Tribe's administrative buildings, school,
4 elder center, and housing all located in a tsu-
5 nami zone;

6 (C) for many decades, the Tribe and the
7 Park have had a dispute over the Reservation
8 boundaries along the Quillayute River;

9 (D) in recent years, this dispute has inten-
10 sified as the Tribe has faced an urgent need for
11 additional lands for housing, schools, and other
12 Tribe purposes outside the tsunami and
13 Quillayute River flood zones; and

14 (E) the lack of a settlement of this dispute
15 threatens to adversely impact the public's exist-
16 ing and future recreational use of several attrac-
17 tions in the Park that are accessed by the
18 public's use of Reservation lands.

19 (2) *PURPOSES.*—The purposes of this Act are—

20 (A) to resolve the longstanding dispute
21 along portions of the northern boundary of the
22 Quileute Indian Reservation;

23 (B) to clarify public use and access to
24 Olympic National Park lands that are contig-
25 uous to the Reservation;

1 (C) to provide the Quileute Indian Tribe
2 with approximately 275 acres of land currently
3 located within the Park and approximately 510
4 acres of land along the Quillayute River, also
5 within the Park;

6 (D) to adjust the wilderness boundaries to
7 provide the Quileute Indian Tribe Tsunami and
8 flood protection; and

9 (E) through the land conveyance, to grant
10 the Tribe access to land outside of tsunami and
11 Quillayute River flood zones, and link existing
12 Reservation land with Tribe land to the east of
13 the Park.

14 (c) *REDESIGNATION OF FEDERAL WILDERNESS LAND,*
15 *OLYMPIC NATIONAL PARK CONVEYANCE.*—

16 (1) *REDESIGNATION OF WILDERNESS.*—*Certain*
17 *Federal land in the Park that was designated as part*
18 *of the Olympic Wilderness under title I of the Wash-*
19 *ington Park Wilderness Act of 1988 (Public Law*
20 *100–668; 102 Stat. 3961; 16 U.S.C. 1132 note) and*
21 *comprises approximately 222 acres, as generally de-*
22 *scribed on the Map is hereby no longer designated as*
23 *wilderness, and is no longer a component of the Na-*
24 *tional Wilderness Preservation System under the Wil-*
25 *derness Act (16 U.S.C. 1131 et seq.).*

1 (2) *LANDS TO BE HELD IN TRUST.*—All right,
2 title, and interest of the United States in and to the
3 approximately 510 acres generally depicted on the
4 Map as “Northern Lands”, and the approximately
5 275 acres generally depicted on the Map as “Southern
6 Lands”, are declared to be held in trust by the United
7 States for the benefit of the Tribe without any further
8 action by the Secretary.

9 (3) *BOUNDARY ADJUSTMENT; SURVEY.*—The Sec-
10 retary shall—

11 (A) *adjust the boundaries of Olympic Wil-*
12 *derness and the Park to reflect the change in sta-*
13 *tus of Federal lands under paragraph (2); and*

14 (B) *as soon as practicable after the date of*
15 *enactment of this section, conduct a survey, de-*
16 *fining the boundaries of the Reservation and*
17 *Park, and of the Federal lands taken into and*
18 *held in trust that are adjacent to the north and*
19 *south bank of the Quillayute River as depicted*
20 *on the Map as “Northern Lands”.*

21 (4) *LAW APPLICABLE TO CERTAIN LAND.*—The
22 land taken into trust under this subsection shall not
23 be subject to any requirements for valuation, ap-
24 praisal, or equalization under any Federal law.

1 (d) *NON-FEDERAL LAND CONVEYANCE.*—Upon com-
2 pletion and acceptance of an environmental hazard assess-
3 ment, the Secretary shall take into trust for the benefit of
4 the Tribe certain non-Federal land owned by the Tribe, con-
5 sisting of approximately 184 acres, as depicted on the Map
6 as “Eastern Lands”, such non-Federal land shall be des-
7 ignated as part of the Reservation.

8 (e) *MAP REQUIREMENTS.*—

9 (1) *AVAILABILITY OF INITIAL MAP.*—The Sec-
10 retary shall make the Map available for public inspec-
11 tion in appropriate offices of the National Park Serv-
12 ice. The Map shall also depict any non-Federal land
13 currently owned by the Tribe which is being placed
14 in trust under this section.

15 (2) *REVISED MAP.*—Not later than one year after
16 the date of the land transaction in subsections (d) and
17 (e), the Secretary shall submit to the Committee on
18 Energy and Natural Resources of the Senate and
19 Committee on Natural Resources of the House of Rep-
20 resentatives a revised map that depicts—

21 (A) the Federal and non-Federal land taken
22 into trust under this section and the Second
23 Beach Trail; and

24 (B) the actual boundaries of the Park as
25 modified by the land conveyance.

1 (f) *JURISDICTION.*—*The land conveyed to the Tribe by*
 2 *this section shall be designated as part of the Quileute Res-*
 3 *ervation and placed in the following jurisdictions:*

4 (1) *TRUST LAND.*—*The same Federal, State, and*
 5 *Tribe jurisdiction as on all other trust lands within*
 6 *the Reservation, so long as the exercise of such juris-*
 7 *diction does not conflict with the terms of the ease-*
 8 *ment described in subsection (g) below.*

9 (2) *TRIBE JURISDICTION.*—*Park visitors shall*
 10 *remain subject to the jurisdiction of the Tribe while*
 11 *on the Second Beach parking lot, on those portions of*
 12 *the Second Beach Trail on the Reservation, and Ri-*
 13 *alto Spit, to the same extent that such visitors are*
 14 *subject to the Tribe's jurisdiction elsewhere on the*
 15 *Reservation.*

16 (g) *GRANT OF EASEMENT IN CONNECTION WITH LAND*
 17 *CONVEYANCE.*—

18 (1) *EASEMENT REQUIRED.*—*The conveyances*
 19 *under subsection (c)(2) shall be subject to the condi-*
 20 *tions described in this subsection.*

21 (2) *REQUIRED RIGHTS UNDER EASEMENT.*—*Any*
 22 *easement granted under this subsection must contain*
 23 *the following express terms:*

1 (A) *NO IMPACT ON EXISTING RIGHTS.*—An
2 easement shall not limit the Tribe’s treaty rights
3 or other existing rights.

4 (B) *RETENTION OF RIGHTS.*—The Tribe re-
5 tains the right to enforce its rules against visi-
6 tors for disorderly conduct, drug and alcohol use,
7 use or possession of firearms, and other disrup-
8 tive behaviors.

9 (C) *MONITORING OF EASEMENT CONDI-*
10 *TIONS.*—The Park has the right, with prior no-
11 tice to the Tribe, to access lands conveyed to the
12 Tribe for purposes of monitoring compliance
13 with any easement made under this subsection.

14 (3) *EXEMPTION FOR SUBSECTION (d) LAND.*—
15 The non-Federal land owned by the Tribe and being
16 placed into trust by the Secretary in accordance with
17 subsection (d) shall not be included in, or subject to,
18 any easement or condition specified in this sub-
19 section.

20 (4) *REQUIRED TERMS AND CONDITIONS.*—The
21 following specified land areas shall be subject to the
22 following easement conditions:

23 (A) *CONDITIONS ON NORTHERN LAND.*—
24 Certain land that will be added to the northern
25 boundary of the Reservation by the land convey-

1 *ance, from Rialto Beach to the east line of Sec-*
2 *tion 23, shall be subject to an easement, which*
3 *shall contain the following requirements:*

4 *(i) The Tribe may lease or encumber*
5 *the land, consistent with their status as*
6 *trust lands, provided that the Tribe ex-*
7 *pressly subjects the conveyance or author-*
8 *ized use to the terms of the easement.*

9 *(ii) The Tribe may place temporary,*
10 *seasonal camps on the land, but shall not*
11 *place or construct commercial residential,*
12 *industrial, or other permanent buildings or*
13 *structures.*

14 *(iii) Roads on the land on the date of*
15 *enactment of this Act may be maintained or*
16 *improved, but no major improvements or*
17 *road construction may occur, and any road*
18 *improvements, temporary camps, or other*
19 *uses of these lands shall not interfere with*
20 *its use as a natural wildlife corridor.*

21 *(iv) The Tribe may authorize Tribe*
22 *members and third parties to engage in rec-*
23 *reational, ceremonial, or treaty uses of the*
24 *land provided that the Tribe adopts and en-*
25 *forces regulations permanently prohibiting*

1 *the use of firearms in the Thunder Field*
2 *area, and any areas south of the Quillayute*
3 *River as depicted on the Map.*

4 (v) *The Tribe may exercise its sov-*
5 *ereign right to fish and gather along the*
6 *Quillayute River in the Thunder Field area.*

7 (vi) *The Tribe may, consistent with*
8 *any applicable Federal law, engage in ac-*
9 *tivities reasonably related to the restoration*
10 *and protection of the Quillayute River and*
11 *its tributaries and streams, weed control,*
12 *fish and wildlife habitat improvement,*
13 *Quillayute River or streambank stabiliza-*
14 *tion, and flood control. The Tribe and the*
15 *Park shall conduct joint planning and co-*
16 *ordination for Quillayute River restoration*
17 *projects, including streambank stabilization*
18 *and flood control.*

19 (vii) *Park officials and visitors shall*
20 *have access to engage in activities along*
21 *and in the Quillayute River and Dickey*
22 *River that are consistent with past rec-*
23 *reational uses, and the Tribe shall allow the*
24 *public to use and access the Dickey River,*
25 *and Quillayute River along the north bank,*

1 *regardless of future changes in the*
2 *Quillayute River or Dickey River align-*
3 *ment.*

4 *(viii) Park officials and visitors shall*
5 *have access to, and shall be allowed to en-*
6 *gage in, activities on Tribal lands at Rialto*
7 *Spit that are consistent with past rec-*
8 *reational uses, and the Tribe shall have ac-*
9 *cess to Park lands at Rialto Beach so that*
10 *the Tribe may access and use the jetty at*
11 *Rialto Beach.*

12 *(B) CONDITIONS ON SECOND BEACH TRAIL*
13 *AND ACCESS.—Certain Quileute Reservation*
14 *land along the boundary between the Park and*
15 *the southern portion of the Reservation, encom-*
16 *passing the Second Beach trailhead, parking*
17 *area, and Second Beach Trail, shall be subject to*
18 *a conservation and management easement, as*
19 *well as any other necessary agreements, which*
20 *shall implement the following provisions:*

21 *(i) The Tribe shall allow Park officials*
22 *and visitors to park motor vehicles at the*
23 *Trail parking area existing on the date of*
24 *enactment of this Act and to access the por-*
25 *tion of the Trail located on Tribal lands,*

1 *and the Park shall be responsible for the*
2 *costs of maintaining existing parking access*
3 *to the Trail.*

4 *(ii) The Tribe shall grant Park offi-*
5 *cials and visitors the right to peacefully use*
6 *and maintain the portion of the Trail that*
7 *is on Tribal lands, and the Park shall be re-*
8 *sponsible for maintaining the Trail and*
9 *shall seek advance written approval from*
10 *the Tribe before undertaking any major*
11 *Trail repairs.*

12 *(iii) The Park officials and the Tribe*
13 *shall conduct joint planning and coordina-*
14 *tion regarding any proposed relocation of*
15 *the Second Beach trailhead, the parking lot,*
16 *or other portions of the Trail.*

17 *(iv) The Tribe shall avoid altering the*
18 *forested landscape of the Tribe-owned*
19 *headlands between First and Second Beach*
20 *in a manner that would adversely impact*
21 *or diminish the aesthetic and natural expe-*
22 *rience of users of the Trail.*

23 *(v) The Tribe shall reserve the right to*
24 *make improvements or undertake activities*
25 *at the Second Beach headlands that are rea-*

1 sonably related to enhancing fish habitat,
2 improving or maintaining the Tribe's
3 hatchery program, or alterations that are
4 reasonably related to the protection of the
5 health and safety of Tribe members and the
6 general public.

7 (vi) The Park officials, after consulta-
8 tion with the Tribe, may remove hazardous
9 or fallen trees on the Tribal-owned Second
10 Beach headlands to the extent necessary to
11 clear or safeguard the Trail, provided that
12 such trees are not removed from Tribal
13 lands.

14 (vii) The Park officials and the Tribe
15 shall negotiate an agreement for the design,
16 location, construction, and maintenance of
17 a gathering structure in the Second Beach
18 headlands overlook for the benefit of Park
19 visitors and the Tribe, if such a structure is
20 proposed to be built.

21 (C) SOUTHERN LANDS EXEMPT.—All other
22 land conveyed to the Tribe along the southern
23 boundary of the Reservation under this section
24 shall not be subject to any easements or condi-
25 tions, and the natural conditions of such land

1 *may be altered to allow for the relocation of*
2 *Tribe members and structures outside the tsu-*
3 *nami and Quillayute River flood zones.*

4 *(D) PROTECTION OF INFRASTRUCTURE.—*

5 *Nothing in this Act is intended to require the*
6 *modification of the parklands and resources ad-*
7 *jacent to the transferred Federal lands. The Tribe*
8 *shall be responsible for developing its lands in a*
9 *manner that reasonably protects its property*
10 *and facilities from adjacent parklands by locat-*
11 *ing buildings and facilities an adequate distance*
12 *from parklands to prevent damage to these facili-*
13 *ties from such threats as hazardous trees and*
14 *wildfire.*

15 *(h) EFFECT OF LAND CONVEYANCE ON CLAIMS.—*

16 *(1) CLAIMS EXTINGUISHED.—Upon the date of*
17 *the land conveyances under subsections (d) and (e)*
18 *and the placement of conveyed lands into trust for the*
19 *benefit of the Tribe, any claims of the Tribe against*
20 *the United States, the Secretary, or the Park relating*
21 *to the Park's past or present ownership, entry, use,*
22 *surveys, or other activities are deemed fully satisfied*
23 *and extinguished upon a formal Tribal Council reso-*
24 *lution, including claims related to the following:*

1 (A) *LAND ALONG QUILLAYUTE RIVER.*—*The*
2 *lands along the sections of the Quillayute River,*
3 *starting east of the existing Rialto Beach park-*
4 *ing lot to the east line of Section 22.*

5 (B) *SECOND BEACH.*—*The portions of the*
6 *Federal or Tribal lands near Second Beach.*

7 (C) *SOUTHERN BOUNDARY PORTIONS.*—*Por-*
8 *tions of the Federal or Tribal lands on the south-*
9 *ern boundary of the Reservation.*

10 (2) *RIALTO BEACH.*—*Nothing in this section*
11 *shall create or extinguish claims of the Tribe relating*
12 *to Rialto Beach.*

13 (i) *GAMING PROHIBITION.*—*No land taken into trust*
14 *for the benefit of the Tribe under this Act shall be considered*
15 *Indian lands for the purpose of the Indian Gaming Regu-*
16 *latory Act (25 U.S.C. 2701 et seq.).*

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