

Calendar No. 530

113TH CONGRESS
2^D SESSION

S. 2040

[Report No. 113–242]

To exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2014

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

AUGUST 5 (legislative day, AUGUST 1), 2014

Reported by Mr. TESTER, without amendment

A BILL

To exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Blackfoot River Land
3 Exchange Act of 2014”.

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the Shoshone-Bannock Tribes, a federally
7 recognized Indian tribe with tribal headquarters at
8 Fort Hall, Idaho—

9 (A) adopted a tribal constitution and by-
10 laws on March 31, 1936, that were approved by
11 the Secretary of the Interior on April 30, 1936,
12 pursuant to the Act of June 18, 1934 (25
13 U.S.C. 461 et seq.) (commonly known as the
14 “Indian Reorganization Act”);

15 (B) has entered into various treaties with
16 the United States, including the Second Treaty
17 of Fort Bridger, executed on July 3, 1868; and

18 (C) has maintained a continuous govern-
19 ment-to-government relationship with the
20 United States since the earliest years of the
21 Union;

22 (2)(A) in 1867, President Andrew Johnson des-
23 igned by Executive order the Fort Hall Reserva-
24 tion for various bands of Shoshone and Bannock In-
25 dians;

1 (B) the Reservation is located near the cities of
2 Blackfoot and Pocatello in southeastern Idaho; and

3 (C) article 4 of the Second Treaty of Fort
4 Bridger secured the Reservation as a “permanent
5 home” for the Shoshone-Bannock Tribes;

6 (3)(A) according to the Executive order referred
7 to in paragraph (2)(A), the Blackfoot River, as the
8 river existed in its natural state—

9 (i) is the northern boundary of the Res-
10 ervation; and

11 (ii) flows in a westerly direction along that
12 northern boundary; and

13 (B) within the Reservation, land use in the
14 River watershed is dominated by—

15 (i) rangeland;

16 (ii) dry and irrigated farming; and

17 (iii) residential development;

18 (4)(A) in 1964, the Corps of Engineers com-
19 pleted a local flood protection project on the River—

20 (i) authorized by section 204 of the Flood
21 Control Act of 1950 (64 Stat. 170); and

22 (ii) sponsored by the Blackfoot River Flood
23 Control District No. 7;

1 (B) the project consisted of building levees, re-
 2 placing irrigation diversion structures, replacing
 3 bridges, and channel realignment; and

4 (C) the channel realignment portion of the
 5 project severed various parcels of land located con-
 6 tiguous to the River along the boundary of the Res-
 7 ervation, resulting in Indian land being located
 8 north of the Realigned River and non-Indian land
 9 being located south of the Realigned River;

10 (5) beginning in 1999, the Cadastral Survey
 11 Office of the Bureau of Land Management con-
 12 ducted surveys of—

13 (A) 25 parcels of Indian land; and

14 (B) 19 parcels of non-Indian land; and

15 (6) the enactment of this Act and separate
 16 agreements of the parties would represent a resolu-
 17 tion of the disputes described in subsection (b)(1)
 18 among—

19 (A) the Tribes;

20 (B) the allottees; and

21 (C) the non-Indian landowners.

22 (b) PURPOSES.—The purposes of this Act are—

23 (1) to resolve the land ownership and land use
 24 disputes resulting from realignment of the River by
 25 the Corps of Engineers during calendar year 1964

1 pursuant to the project described in subsection
2 (a)(4)(A); and
3 (2) to achieve a final and fair solution to re-
4 solve those disputes.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) ALLOTTEE.—The term “allottee” means an
8 heir of an original allottee of the Reservation who
9 owns an interest in a parcel of land that is—

10 (A) held in trust by the United States for
11 the benefit of the allottee; and

12 (B) located north of the Realigned River
13 within the exterior boundaries of the Reserva-
14 tion.

15 (2) BLACKFOOT RIVER FLOOD CONTROL DIS-
16 TRICT NO. 7.—The term “Blackfoot River Flood
17 Control District No. 7” means the governmental
18 subdivision in the State of Idaho, located at 75 East
19 Judicial, Blackfoot, Idaho, that—

20 (A) is responsible for maintenance and re-
21 pair of the Realigned River; and

22 (B) represents the non-Indian landowners
23 relating to the resolution of the disputes de-
24 scribed in section 2(b)(1) in accordance with
25 this Act.

1 (3) INDIAN LAND.—The term “Indian land”
2 means any parcel of land that is—

3 (A) held in trust by the United States for
4 the benefit of the Tribes or the allottees;

5 (B) located north of the Realigned River;
6 and

7 (C) identified in exhibit A of the survey of
8 the Bureau of Land Management entitled “Sur-
9 vey of the Blackfoot River of 2002 to 2005”,
10 which is located at—

11 (i) the Fort Hall Indian Agency office
12 of the Bureau of Indian Affairs; and

13 (ii) the Blackfoot River Flood Control
14 District No. 7.

15 (4) NON-INDIAN LAND.—The term “non-Indian
16 land” means any parcel of fee land that is—

17 (A) located south of the Realigned River;
18 and

19 (B) identified in exhibit B, which is located
20 at the areas described in clauses (i) and (ii) of
21 paragraph (3)(C).

22 (5) NON-INDIAN LANDOWNER.—The term
23 “non-Indian landowner” means any individual who
24 holds fee title to non-Indian land and is represented

1 by the Blackfoot River Flood Control District No. 7
2 for purposes of this Act.

3 (6) REALIGNED RIVER.—The term “Realigned
4 River” means that portion of the River that was re-
5 aligned by the Corps of Engineers during calendar
6 year 1964 pursuant to the project described in sec-
7 tion 2(a)(4)(A).

8 (7) RESERVATION.—The term “Reservation”
9 means the Fort Hall Reservation established by Ex-
10 ecutive order during calendar year 1867 and con-
11 firmed by treaty during calendar year 1868.

12 (8) RIVER.—The term “River” means the
13 Blackfoot River located in the State of Idaho.

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

16 (10) TRIBES.—The term “Tribes” means the
17 Shoshone-Bannock Tribes.

18 **SEC. 4. RELEASE OF CLAIMS TO CERTAIN INDIAN AND NON-**
19 **INDIAN OWNED LANDS.**

20 (a) RELEASE OF CLAIMS.—Effective on the date of
21 enactment of this Act—

22 (1) all existing and future claims with respect
23 to the Indian land and the non-Indian land and all
24 right, title, and interest that the Tribes, allottees,
25 non-Indian landowners, and the Blackfoot River

1 Flood Control District No. 7 may have had to that
2 land shall be extinguished;

3 (2) any interest of the Tribes, the allottees, or
4 the United States, acting as trustee for the Tribes
5 or allottees, in the Indian land shall be extinguished
6 under section 2116 of the Revised Statutes (com-
7 monly known as the “Indian Trade and Intercourse
8 Act”) (25 U.S.C. 177); and

9 (3) to the extent any interest in non-Indian
10 land transferred into trust pursuant to section 5 vio-
11 lates section 2116 of the Revised Statutes (com-
12 monly known as the “Indian Trade and Intercourse
13 Act”) (25 U.S.C. 177), that transfer shall be valid,
14 subject to the condition that the transfer is con-
15 sistent with all other applicable Federal laws (includ-
16 ing regulations).

17 (b) DOCUMENTATION.—The Secretary may execute
18 and file any appropriate documents (including a plat or
19 map of the transferred Indian land) that are suitable for
20 filing with the Bingham County clerk or other appropriate
21 county official, as the Secretary determines necessary to
22 carry out this Act.

1 **SEC. 5. NON-INDIAN LAND TO BE PLACED INTO TRUST FOR**
2 **TRIBES.**

3 Effective on the date of enactment of this Act, the
4 non-Indian land shall be considered to be held in trust
5 by the United States for the benefit of the Tribes.

6 **SEC. 6. TRUST LAND TO BE CONVERTED TO FEE LAND.**

7 (a) IN GENERAL.—As soon as practicable after the
8 date of enactment of this Act, the Secretary shall transfer
9 the Indian land to the Blackfoot River Flood Control Dis-
10 trict No. 7 for use or sale in accordance with subsection
11 (b).

12 (b) USE OF LAND.—

13 (1) IN GENERAL.—The Blackfoot River Flood
14 Control District No. 7 shall use any proceeds from
15 the sale of land described in subsection (a) according
16 to the following priorities:

17 (A) To compensate, at fair market value,
18 each non-Indian landowner for the net loss of
19 land to that non-Indian landowner resulting
20 from the implementation of this Act.

21 (B) To compensate the Blackfoot River
22 Flood Control District No. 7 for any adminis-
23 trative or other expenses relating to carrying
24 out this Act.

25 (2) REMAINING LAND.—If any land remains to
26 be conveyed or proceeds remain after the sale of the

1 land, the Blackfoot River Flood Control District No.
2 7 may dispose of that remaining land or proceeds as
3 the Blackfoot River Flood Control District No. 7 de-
4 termines to be appropriate.

5 **SEC. 7. EFFECT ON ORIGINAL RESERVATION BOUNDARY.**

6 Nothing in this Act affects the original boundary of
7 the Reservation, as established by Executive order during
8 calendar year 1867 and confirmed by treaty during cal-
9 endar year 1868.

10 **SEC. 8. EFFECT ON TRIBAL WATER RIGHTS.**

11 Nothing in this Act extinguishes or conveys any water
12 right of the Tribes, as established in the agreement enti-
13 tled “1990 Fort Hall Indian Water Rights Agreement”
14 and ratified by section 4 of the Fort Hall Indian Water
15 Rights Act of 1990 (Public Law 101–602; 104 Stat.
16 3060).

17 **SEC. 9. DISCLAIMERS REGARDING CLAIMS.**

18 Nothing in this Act—

19 (1) affects in any manner the sovereign claim
20 of the State of Idaho to title in and to the beds and
21 banks of the River under the equal footing doctrine
22 of the Constitution of the United States;

23 (2) affects any action by the State of Idaho to
24 establish the title described in paragraph (1) under

1 section 2409a of title 28, United States Code (com-
2 monly known as the “Quiet Title Act”);

3 (3) affects the ability of the Tribes or the
4 United States to claim ownership of the beds and
5 banks of the River; or

6 (4) extinguishes or conveys any water rights of
7 non-Indian landowners or the claims of those land-
8 owners to water rights in the Snake River Basin Ad-
9 judication.

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