

PUYALLUP TRIBE OF INDIANS LAND INTO TRUST  
CONFIRMATION ACT OF 2023

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MARCH 12, 2024.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. WESTERMAN, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 929]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 929) to take certain land in the State of Washington into trust for the benefit of the Puyallup Tribe of the Puyallup Reservation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 929 is to take certain land in the State of Washington into trust for the benefit of the Puyallup Tribe of the Puyallup Reservation, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 929 would take approximately 17 acres of fee land in Pierce County, Washington, into trust for the benefit of the Puyallup Tribe of Indians. The land taken into trust would be part of the tribe's reservation. Gaming, pursuant to the Indian Gaming Regulatory Act,<sup>1</sup> would be prohibited on the land placed into trust under the bill.

The Puyallup tribe is located south of Seattle in Tacoma, Washington. In 1854, the Puyallup Tribe, alongside two other tribes, entered into a treaty with the United States, now known as the Medi-

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<sup>1</sup> 25 USC 2701 et seq.

cine Creek Treaty.<sup>2</sup> As a result, all three tribes were moved onto small reservations located away from the resources the tribe relied on, leading to the Treaty Wars from 1855 to 1856.<sup>3</sup> In August of 1856, the United States came into agreement with the three tribes resulting in an additional 18,062 acres being added to the Puyallup Reservation on Commencement Bay within Puget Sound.<sup>4</sup> Further settlement of the area by non-Indians, the arrival of the Northern Pacific Railroad terminal in the 1870s, and the signing of the General Allotment Act in 1887 led to the tribe holding only around three percent of their designated reservation lands by 1984.<sup>5</sup>

The Puyallup tribe began to pursue reacquisition of their reservation lands in the late 1970s, working to place several tracts of land into trust for their tribal members within the City of Tacoma, which were within the tribe's historic reservation. In 1978, the Secretary of the Interior's authority to place land into trust for the Puyallup was confirmed in *Andrus v. City of Tacoma*.<sup>6</sup> The 1983 case of *Puyallup Indian Tribe v. Port of Tacoma* affirmed the tribe's title to 12 acres of riverbed land exposed when the Army Corps of Engineers rechanneled the Puyallup River from 1948 to 1950.<sup>7</sup> The tribe continued to pursue the reacquisition of reservation lands by filing a complaint against the Port of Tacoma and the Union Pacific Railroad to reacquire 120 acres of tideland along Commencement Bay and Puyallup River, disrupting title to lands where much of the city's industry was located.<sup>8</sup> After years of negotiations, the Puyallup Land Claims Settlement Act<sup>9</sup> was enacted in 1990 by Congress to formalize the land claim settlement negotiated between all parties, including the Puyallup tribe, the Federal government, the State of Washington, local governments, and private entities.<sup>10</sup> In exchange for relinquishing any legal claims to various acres of land, the tribe received \$162 million and 900 acres of land.<sup>11</sup>

Since the 1990 settlement, the Puyallup tribe has engaged in several economic development projects on their trust lands within the Tacoma area and continues to seek restoration of the tribe's homelands.

In the mid-2010s, the Puyallup tribe began the process of taking the East Alexander Avenue parcels and the Ruston Way parcels into trust as a discretionary trust acquisition through the Bureau of Indian Affairs (BIA) administrative process. However, likely soil and groundwater contamination of the land was found through Environmental Site Assessments. The findings triggered the Department of the Interior's policy to "minimize the exposure of bureaus/

<sup>2</sup> Puyallup tribe of Indians", Tiller's Guide to Indian Country, Ed. by Veronica E. Velarde Tiller (2015).

<sup>3</sup> "Our Story," Puyallup Tribe. <http://puyallup-tribe.com/ourtribe/>.

<sup>4</sup> Id.

<sup>5</sup> Michael Douglas, "Puyallup Land Claims Settlement," HistoryLink.org, Oct. 12, 2016. [www.historylink.org/File/20157](http://www.historylink.org/File/20157) (hereinafter Douglas, Puyallup Land Claims Settlement); and Timothy Egan, "Indian Tribe Agrees to Drop Claim to Tacoma Land for \$162 Million," *New York Times*, Aug. 29, 1988. <https://www.nytimes.com/1988/08/29/us/indian-tribe-agrees-to-drop-claim-to-tacoma-land-for-162-million.html>.

<sup>6</sup> *City of Tacoma, Wash. v. Andrus*, 457 F. Supp. 342 (D.D.C. 1978).

<sup>7</sup> *Puyallup Indian Tribe v. Port of Tacoma*, 717 F.2d 1251 (9th Cir. 1983).

<sup>8</sup> Douglas, Puyallup Land Claims Settlement.

<sup>9</sup> P.L. 101-41.

<sup>10</sup> Douglas, Puyallup Land Claims Settlement.

<sup>11</sup> Associated Press. "Tribe Wins Money in Settlement of Land Suit." *The New York Times*, Mar. 25, 1990. <https://www.nytimes.com/1990/03/25/us/tribe-wins-money-in-settlement-of-land-suit.html>.

offices to liabilities and potential remediation costs by avoiding the acquisition of real property that is contaminated, unless otherwise specifically directed by Congress . . .”<sup>12</sup>

According to the tribe, the BIA is unwilling to take the land into trust with the current documented environmental contamination. The BIA has stated to the tribe in correspondence that, because of the liability implications for the federal government and the cost implications if the tribe proceeds through the regulatory process, congressional action is “the most viable option” for the Puyallup tribe to have these lands placed into trust, partially because further environmental remediation would be prohibitively expensive to the tribe.<sup>13</sup> H.R. 929 includes language stating that the United States shall not be liable for any environmental contamination that occurred on or before the date on which the land is taken into trust.

#### COMMITTEE ACTION

H.R. 929 was introduced on February 9, 2023, by Rep. Kilmer (D-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Insular Affairs. On July 12, 2023, the Subcommittee on Indian and Insular Affairs held a hearing on the bill. On September 20, 2023, the Committee on Natural Resources met to consider the bill. The Subcommittee on Indian and Insular Affairs was discharged from further consideration of H.R. 929 by unanimous consent. The bill was then ordered favorably reported to the House of Representatives by unanimous consent.

#### HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Indian and Insular Affairs held on July 12, 2023.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Puyallup Tribe of Indians Land into Trust Confirmation Act of 2023.”

##### *Section 2. Land to be taken into trust for the benefit of the Puyallup Tribe of the Puyallup reservation*

Takes roughly 17.264 acres of land owned in fee by the Puyallup Tribe, identified as three parcels of land into trust by the United States for the benefit of the tribe. Any environmental liability on the United States is waived, and all class II and class III gaming under the Indian Gaming Regulatory Act is prohibited on the land in question.

<sup>12</sup>Department of Interior, Department Manual, effective Oct. 12, 2016. 602 DM 2, at 2.5, available at: [https://www.doi.gov/sites/doi.gov/files/elips/documents/602-dm-2\\_0.pdf](https://www.doi.gov/sites/doi.gov/files/elips/documents/602-dm-2_0.pdf).

<sup>13</sup>Letter to Chairman Bill Sterud, Puyallup Tribe of Indians, from Bryan Mercier, Northwest Regional Director, BIA. August 15, 2022. On file with committee staff.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

<b>H.R. 929, Puyallup Tribe of Indians Land Into Trust Confirmation Act of 2023</b>			
As ordered reported by the House Committee on Natural Resources on September 20, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 929 would direct the Department of the Interior (DOI) to take into trust approximately 17 acres of land in Pierce County, Washington, owned by the Puyallup Tribe. Under the bill, DOI would hold title to that land for the benefit of the tribe, and the United States would not be liable for any environmental contamination that occurred on or before the date the land would be taken into trust. The legislation also would prohibit certain types of gaming on those lands. Using information from DOI, CBO estimates that the administrative costs to implement H.R. 929 would not be significant; any spending would be subject to the availability of appropriated funds.

H.R. 929 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). The bill would prohibit state and local governments from taxing land taken into trust for the Puyallup Tribe. Information from Pierce County about taxes and other receipts associated with the land indicates that those foregone revenues would total less than \$100,000 annually, well below the annual intergovernmental threshold established in UMRA (\$99 million in 2023, adjusted annually for inflation).

The bill contains no private-sector mandates.

The CBO staff contacts for this estimate are Julia Aman (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by Emily Stern, Senior Adviser for Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to take certain land in the State of Washington into trust for the benefit of the Puyallup Tribe of the Puyallup Reservation, and for other purposes.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the rules of the House of Representatives.

#### UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office (CBO), H.R. 929 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). However, CBO estimates that any unfunded mandate would fall well below the annual intergovernmental threshold established in UMRA.

#### EXISTING PROGRAMS

*Directed Rule Making.* This bill does not contain any directed rule makings.

*Duplication of Existing Programs.* This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As ordered reported by the Committee on Natural Resources,  
H.R. 929 makes no changes in existing law.

