

108TH CONGRESS
1ST SESSION

H. R. 1409

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2003

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, 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 “Eastern Band of Cher-
3 okee Indians Land Exchange Act of 2003”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Since time immemorial, the ancestors of the
7 Eastern Band of Cherokee Indians have lived in the
8 Great Smoky Mountains of North Carolina. The
9 Eastern Band’s ancestral homeland includes sub-
10 stantial parts of seven eastern States and the land
11 that now constitutes the Great Smoky Mountains
12 National Park.

13 (2) The Eastern Band has proposed a land ex-
14 change with the National Park Service and has
15 spent over \$1,500,000 for studies to thoroughly in-
16 ventory the environmental and cultural resources of
17 the proposed land exchange parcels.

18 (3) Such land exchange would benefit the
19 American public by enabling the National Park
20 Service to acquire the Yellow Face tract, comprising
21 218 acres of land adjacent to the Blue Ridge Park-
22 way.

23 (4) Acquisition of the Yellow Face tract for pro-
24 tection by the National Park Service would serve the
25 public interest by preserving important views for
26 Blue Ridge Parkway visitors, preserving habitat for

1 endangered species and threatened species including
2 the northern flying squirrel and the rock gnome li-
3 chen, preserving valuable high altitude wetland
4 seeps, and preserving the property from rapidly ad-
5 vancing residential development.

6 (5) The proposed land exchange would also ben-
7 efit the Eastern Band by allowing it to acquire the
8 Ravensford tract, comprising 143 acres adjacent to
9 the Tribe’s trust territory in Cherokee, North Caro-
10 lina, and currently within the Great Smoky Moun-
11 tains National Park and Blue Ridge Parkway. The
12 Ravensford tract is part of the Tribe’s ancestral
13 homeland as evidenced by archaeological finds dat-
14 ing back no less than 6,000 years.

15 (6) The Eastern Band has a critical need to re-
16 place the current Cherokee Elementary School,
17 which was built by the Department of the Interior
18 over 40 years ago with a capacity of 480 students.
19 The school now hosts 794 students in dilapidated
20 buildings and mobile classrooms at a dangerous
21 highway intersection in downtown Cherokee, North
22 Carolina.

23 (7) The Eastern Band ultimately intends to
24 build a new three-school campus to serve as an envi-
25 ronmental, cultural, and educational “village,” where

1 Cherokee language and culture can be taught along-
2 side the standard curriculum.

3 (8) The land exchange and construction of this
4 educational village will benefit the American public
5 by preserving Cherokee traditions and fostering a vi-
6 brant, modern, and well-educated Indian nation.

7 (9) The land exchange will also reunify tribal
8 reservation lands now separated between the Big
9 Cove Community and the balance of the Qualla
10 Boundary, reestablishing the territorial integrity of
11 the Eastern Band.

12 (10) The Ravensford tract contains no threat-
13 ened species or endangered species listed pursuant
14 to the Endangered Species Act of 1973. The 218-
15 acre Yellow Face tract has a number of listed
16 threatened species and endangered species and a
17 higher appraised value than the 143-acre Ravensford
18 tract.

19 (11) The American public will benefit from the
20 Eastern Band's commitment to mitigate any impacts
21 on natural and cultural resources on the Ravensford
22 tract, by among other things reducing the requested
23 acreage from 168 to 143 acres.

24 (12) The Congress and the Department of the
25 Interior have approved land exchanges in the past

1 when the benefits to the public and requesting party
2 are clear, as they are in this case.

3 (b) PURPOSES.—The purposes of this Act are the fol-
4 lowing:

5 (1) To acquire the Yellow Face tract for protec-
6 tion by the National Park Service, in order to pre-
7 serve the Waterrock Knob area’s spectacular views,
8 endangered species and high altitude wetland seeps
9 from encroachment by housing development, for the
10 benefit and enjoyment of the American public.

11 (2) To transfer the Ravensford tract, to be held
12 in trust by the United States for the benefit of the
13 Eastern Band of Cherokee Indians, in order to pro-
14 vide for an education facility that promotes the cul-
15 tural integrity of the Eastern Band and to reunify
16 two Cherokee communities that were historically
17 contiguous, while mitigating any impacts on natural
18 and cultural resources on the tract.

19 (3) To promote cooperative activities and part-
20 nerships between the Eastern band and the National
21 Park Service within the Eastern Band’s ancestral
22 homelands.

23 **SEC. 3. LAND EXCHANGE.**

24 (a) IN GENERAL.—The Secretary of the Interior
25 (“Secretary”) shall exchange the Ravensford tract, cur-

1 rently in the Great Smoky Mountains National Park and
2 the Blue Ridge Parkway, for the Yellow Face tract adja-
3 cent to the Waterrock Knob Visitor Center on the Blue
4 Ridge Parkway.

5 (b) TREATMENT OF EXCHANGED LANDS.—Effective
6 upon receipt by the Secretary of a deed or deeds satisfac-
7 tory to the Secretary for the lands comprising the Yellow
8 Face tract (as described in subsection (c)) to the United
9 States, all right, title, and interest of the United States
10 in and to the Ravensford tract (as described in subsection
11 (d)), including all improvements and appurtenances, are
12 declared to be held in trust by the United States for the
13 benefit of the Eastern Band of Cherokee Indians as part
14 of the Cherokee Indian Reservation.

15 (c) YELLOW FACE TRACT.—The Yellow Face tract
16 shall contain Parcels 88 and 89 of the Hornbuckle Tract,
17 Yellow Face Section, Qualla Township, Jackson County,
18 North Carolina, which consist altogether of approximately
19 218 acres and are depicted as the “Yellow Face Tract”
20 on the map entitled “Land Exchange Between the Na-
21 tional Park Service and the Eastern Band of Cherokee
22 Indians,” numbered 133/80020A, and dated November
23 2002. The map shall be on file and available for public
24 inspection in the appropriate offices of the National Park
25 Service and the Bureau of Indian Affairs. Upon comple-

1 tion of the land exchange, the Secretary shall adjust the
2 boundary of the Blue Ridge Parkway to include such lands
3 and shall manage the lands as part of the parkway.

4 (d) RAVENSFORD TRACT.—The lands declared by
5 subsection (b) to be held in trust for the Eastern Band
6 of Cherokee Indians shall consist of approximately 143
7 acres depicted as the “Ravensford Tract” on the map
8 identified in subsection (c). Upon completion of the land
9 exchange, the Secretary shall adjust the boundaries of
10 Great Smoky Mountains National Park and the Blue
11 Ridge Parkway to exclude such lands.

12 (e) LEGAL DESCRIPTIONS.—Not later than 1 year
13 after the date of enactment of this Act, the Secretary of
14 the Interior shall file a legal description of the areas de-
15 scribed in subsections (c) and (d) with the Committee on
16 Resources of the House of Representatives and the Com-
17 mittee on Indian Affairs and the Committee on Energy
18 and Natural Resources of the Senate. Such legal descrip-
19 tions shall have the same force and effect as if the infor-
20 mation contained in the description were included in those
21 subsections except that the Secretary may correct clerical
22 and typographical errors in such legal descriptions. The
23 legal descriptions shall be on file and available for public
24 inspection in the offices of the National Park Service and
25 the Bureau of Indian Affairs.

1 **SEC. 4. IMPLEMENTATION PROCESS.**

2 (a) GOVERNMENT-TO-GOVERNMENT AGREE-
3 MENTS.—In order to fulfill the purposes of this Act and
4 to establish cooperative partnerships for purposes of this
5 Act the Director of the National Park Service and the
6 Eastern Band of Cherokee Indians shall enter into govern-
7 ment-to-government consultations and shall develop proto-
8 cols to review planned construction on the Ravensford
9 tract. The Director of the National Park Service is author-
10 ized to enter into cooperative agreements with the Eastern
11 Band for the purpose of providing training, management,
12 protection, preservation, and interpretation of the natural
13 and cultural resources on the Ravensford tract.

14 (b) CONSTRUCTION STANDARDS.—Recognizing the
15 mutual interests and responsibilities of the Eastern Band
16 of Cherokee Indians and the National Park Service for
17 the conservation and protection of the resources on the
18 Ravensford tract, the National Park Service and the East-
19 ern Band shall develop mutually agreed upon standards
20 for size, impact, and design of construction consistent with
21 the purposes of this Act on the Ravensford tract. The
22 standards shall be consistent with the Eastern Band's
23 need to develop educational facilities and support infra-
24 structure adequate for current and future generations and
25 shall otherwise minimize or mitigate any adverse impacts
26 on natural or cultural resources. The standards shall be

1 based on recognized best practices for environmental sus-
2 tainability and shall be reviewed periodically and revised
3 as necessary. Development of the tract shall be limited to
4 a road and utility corridor, an educational campus, and
5 the infrastructure necessary to support such development.
6 No new structures shall be constructed on the part of the
7 Ravensford tract depicted as the “No New Construction”
8 area on the map referred to in Section 3(c), which is gen-
9 erally the area north of the point where Big Cove Road
10 crosses the Raven Fork River. All development on the
11 Ravensford tract shall be conducted in a manner con-
12 sistent with this section and such development standards.

13 **SEC. 5. GAMING PROHIBITION.**

14 Gaming as defined and regulated by the Indian Gam-
15 ing Regulatory Act (25 U.S.C. 2701 et seq.) shall be pro-
16 hibited on the Ravensford tract.

Passed the House of Representatives September 23,
2003.

Attest:

JEFF TRANDAHL,

Clerk.