

108TH CONGRESS
1ST SESSION

S. 868

To amend the Coos, Lower Umpqua, and Siuslaw Restoration Act to provide for the cultural restoration and economic self-sufficiency of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians of Oregon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2003

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Coos, Lower Umpqua, and Siuslaw Restoration Act to provide for the cultural restoration and economic self-sufficiency of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians of Oregon, 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 “Coos, Lower Umpqua,
5 and Siuslaw Restoration Amendments Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Confederated Tribes of Coos, Lower
2 Umpqua, and Siuslaw Indians (referred to in this
3 Act as the “Tribe”) were restored to Federal rec-
4 ognition by the Coos, Lower Umpqua, and Siuslaw
5 Restoration Act (25 U.S.C. 714 et seq.);

6 (2) the Tribe remains the only federally-recog-
7 nized Indian tribe in the State of Oregon that has
8 never received any compensation from the Federal
9 Government for the loss of former homeland;

10 (3) the Tribe historically inhabited land along
11 the Oregon coast located in the Coos River, lower
12 Umpqua River, and Siuslaw River watersheds;

13 (4) in addition to restoring Federal recognition,
14 the Coos, Lower Umpqua, and Siuslaw Restoration
15 Act (25 U.S.C. 714 et seq.) and other Federal laws
16 relating to Indian tribes provide the means for the
17 Tribe to achieve the goals of—

18 (A) cultural restoration;

19 (B) economic self-sufficiency; and

20 (C) the attainment of a standard of living
21 equivalent to that enjoyed by other citizens of
22 the United States;

23 (5) under the Indian Self-Determination Act
24 (25 U.S.C. 450f et seq.) and the Indian Financing
25 Act of 1974 (25 U.S.C. 1451 et seq.), the Tribe has

1 developed a reservation plan as a means of achieving
2 economic, cultural restoration, and self-governance
3 goals;

4 (6) the principal component of the reservation
5 plan is the restoration of a small portion of the
6 1,600,000-acre former homeland of the Tribe to es-
7 tablish a tribal forest land base;

8 (7) the tribal forest land base would be estab-
9 lished by redesignating as Indian trust land certain
10 land owned by the Federal Government;

11 (8) on redesignation of that land, the tribal for-
12 est land base would be managed in trust by the Bu-
13 reau of Indian Affairs, for the long-term benefit of
14 the Tribe, to ensure—

15 (A) the provision of positive contributions
16 to local communities; and

17 (B) the health of ancestral watersheds; and

18 (9) the establishment of a tribal forest land
19 base is consistent with provisions of the Tribal Land
20 Consolidation Area, approved by the Secretary of the
21 Interior on April 24, 1991, for the express purpose
22 of assisting the Tribe in selecting land for the estab-
23 lishment of a tribal forest land base.

1 **SEC. 3. COOS TRIBAL FOREST.**

2 Section 7 of the Coos, Lower Umpqua, and Siuslaw
3 Restoration Act (25 U.S.C. 714e) is amended—

4 (1) in subsection (a), by striking “at no cost to
5 the Federal Government”; and

6 (2) by adding at the end the following:

7 “(d) COOS TRIBAL FOREST.—

8 “(1) DEFINITIONS.—In this subsection:

9 “(A) FOREST.—The term ‘Forest’ means
10 the Coos Tribal Forest designated under para-
11 graph (2)(A)(ii).

12 “(B) SECRETARY.—The term ‘Secretary’
13 means the Secretary of the Interior, acting
14 through the Assistant Secretary for Indian Af-
15 fairs.

16 “(C) STATE.—The term ‘State’ means the
17 State of Oregon.

18 “(2) DESIGNATION.—

19 “(A) IN GENERAL.—Subject to valid exist-
20 ing rights (including all valid liens, rights-of-
21 way, reciprocal road rights-of-way agreements,
22 licenses, leases, permits, and easements in ef-
23 fect on the date of enactment of this sub-
24 section), all right, title, and interest of the
25 United States in and to the land described in
26 subparagraph (B) shall be—

1 “(i) held by the Federal Government
 2 in trust for the use and benefit of the
 3 Tribe; and

4 “(ii) designated by the Secretary as
 5 the ‘Coos Tribal Forest’.

6 “(B) DESCRIPTION OF LAND.—The land
 7 referred to in subparagraph (A) is approxi-
 8 mately 62,865 acres of land located in the
 9 State, and more particularly described in the
 10 Revised Forest Land Restoration Proposal of
 11 the Tribe, dated April 2002, including—

12 “(i) the map entitled ‘Forest Land
 13 Restoration Proposal Land Base Options’;
 14 and

15 “(ii) the legal descriptions and acre-
 16 age of—

17 “(I) the Siuslaw East Tract;

18 “(II) the Siuslaw West Tract;

19 and

20 “(III) the Lakes Tract.

21 “(3) APPLICABLE AUTHORITY.—Land held in
 22 trust under paragraph (2)(A)(i) shall—

23 “(A) constitute a forest reservation of the
 24 Tribe; and

“(B) be subject to the Act of June 18, 1934 (commonly known as the ‘Indian Reorganization Act’) (25 U.S.C. 461 et seq.).

“(4) MANAGEMENT.—

“(A) IN GENERAL.—The Secretary shall manage the Forest—

“(i) in accordance with the National Indian Forest Resources Management Act (25 U.S.C. 3101 et seq.) and all other applicable laws;

“(ii) in accordance with all applicable critical habitat designations under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

“(iii) in a manner that, to the maximum extent practicable, achieves management and restoration goals established for nearby or adjacent Federal land.

“(B) FOREST PRODUCTS.—

“(i) IN GENERAL.—The Secretary shall distribute revenue from the sale of Indian forest products derived from the Forest in accordance with section 308 of the National Indian Forest Resources Management Act (25 U.S.C. 3107).

1 “(ii) TIMBER PRODUCTION.—

2 “(I) IN GENERAL.—Unprocessed
3 logs harvested from the Forest shall
4 be subject to the same Federal statu-
5 tory restrictions on export to foreign
6 nations that apply to unprocessed logs
7 harvested from Federal land.

8 “(II) COMPETITIVE BIDDING.—
9 Notwithstanding any other provision
10 of law, all sales of timber from the
11 Forest shall be advertised, offered,
12 and awarded in accordance with com-
13 petitive bidding practices (under
14 which sales shall be awarded to the
15 highest responsible bidder).

16 “(III) SAWMILLS.—The Tribe
17 shall not construct or operate any
18 sawmill on the land comprising the
19 Forest.

20 “(C) GAMING.—No class III gaming (as
21 defined in section 4 of the Indian Gaming Reg-
22 ulatory Act (25 U.S.C. 2703)) shall be con-
23 ducted on any land comprising the Forest.

24 “(5) MANAGEMENT PLAN AND TRANSITION.—

25 “(A) MANAGEMENT PLAN.—

1 “(i) IN GENERAL.—Not later than 2
 2 years after the date of enactment of this
 3 Act, the Secretary, in consultation with the
 4 Tribe, shall develop a resource manage-
 5 ment plan for the Forest.

6 “(ii) FEDERAL ASSISTANCE.—The
 7 Secretary of Agriculture, acting through
 8 the Chief of the Forest Service, shall co-
 9 operate and assist in—

10 “(I) the development of the plan
 11 under clause (i); and

12 “(II) the transition of manage-
 13 ment operations for the Forest.

14 “(iii) COMPONENTS OF PLAN.—The
 15 plan under clause (i) shall include—

16 “(I) management direction,
 17 standards, and practices for specified
 18 land allocations in the Forest; and

19 “(II) designation of special man-
 20 agement areas that, as determined by
 21 the Secretary, are of high cultural sig-
 22 nificance and possess unique natural
 23 and recreational qualities, including—

24 “(aa) the Kentucky Falls
 25 Special Interest Area, consisting

1 of a 1683-acre corridor along the
 2 north fork of the Smith River,
 3 Oregon; and

4 “(bb) the Beaver Creek
 5 Falls and Sweet Creek Falls
 6 sites, Oregon, consisting of a
 7 total of 320 acres.

8 “(iv) SPECIAL MANAGEMENT
 9 AREAS.—Each special management area
 10 designated under clause (iii) shall be man-
 11 aged in accordance with—

12 “(I) standards and guidelines of
 13 the Forest Service and the Siuslaw
 14 National Forest plan (as in effect as
 15 of the date of enactment of this sub-
 16 section); and

17 “(II) such additional standards
 18 and practices relating to management
 19 of cultural resources as may be devel-
 20 oped or used by the Tribe.

21 “(B) ASSISTANCE.—The Secretary of Agri-
 22 culture, acting through the Chief of the Forest
 23 Service, shall cooperate and assist in the transi-
 24 tion of management operations for the Forest.

25 “(6) PUBLIC ACCESS.—

1 “(A) IN GENERAL.—Except as provided in
 2 subparagraph (B), the Forest shall remain open
 3 to the public for the purposes of hunting, fish-
 4 ing, recreation, and transportation.

5 “(B) RESTRICTIONS.—Subparagraph (A)
 6 shall not apply in any case in which—

7 “(i) closure of the Forest is required
 8 by Federal or State law; or

9 “(ii) the Tribe and the State agree in
 10 writing that restrictions on public access
 11 are appropriate to prevent harm to natural
 12 resources in, or the environmental quality
 13 of, the Forest (except that the agreement
 14 of the State shall not be required in any
 15 case in which immediate action is nec-
 16 essary to protect archaeological or tribal
 17 cultural resources).

18 “(7) JURISDICTION.—

19 “(A) IN GENERAL.—The United States
 20 District Court for the District of Oregon shall
 21 have jurisdiction over an action against the Sec-
 22 retary arising out of any claim of a violation of
 23 this subsection.

24 “(B) CLAIMANTS.—In accordance with ap-
 25 plicable Federal law relating to standing to sue,

1 any affected citizen may bring a lawsuit against
2 the Secretary for a violation of this subsection.

3 “(C) REMEDIES.—Except as provided
4 under any other applicable law, remedies avail-
5 able under this subsection—

6 “(i) shall be limited to equitable relief;

7 and

8 “(ii) shall not include damages.

9 “(8) STATE REGULATORY AND CIVIL JURISDIC-
10 TION.—

11 “(A) IN GENERAL.—With respect to the
12 Forest, the State may exercise exclusive regu-
13 latory civil jurisdiction (including adoption and
14 enforcement of administrative rules and orders)
15 over—

16 “(i) except as provided in subpara-
17 graph (B), the management, allocation,
18 and administration of fish and wildlife re-
19 sources, including—

20 “(I) the establishment and en-
21 forcement of—

22 “(aa) hunting and fishing
23 seasons;

24 “(bb) bag limits; and

- 1 “(cc) limits on equipment
2 and methods;
3 “(II) the issuance of permits and
4 licenses; and
5 “(III) the approval or dis-
6 approval of hatcheries, game farms,
7 and other breeding facilities;
8 “(ii)(I) the allocation and administra-
9 tion of water rights;
10 “(II) the appropriation of water; and
11 “(III) the use of water;
12 “(iii) the regulation of boating activi-
13 ties, including—
14 “(I) equipment and registration
15 requirements; and
16 “(II) protection of the right of
17 the public to use waterways for the
18 purpose of boating or other naviga-
19 tion;
20 “(iv) fills and removals from water of
21 the State, as defined under applicable law
22 of the State;
23 “(v) the protection and management
24 of the proprietary interests of the State in

1 the beds and banks of navigable water-
2 ways;
3 “(vi) the regulation of—
4 “(I) mining;
5 “(II) mine reclamation activities;
6 and
7 “(III) exploration and drilling for
8 oil and gas deposits;
9 “(vii) the regulation of—
10 “(I) water quality;
11 “(II) air quality (including smoke
12 management);
13 “(III) solid and hazardous waste;
14 and
15 “(IV) remediation of releases of
16 hazardous substances;
17 “(viii) the regulation of the use of
18 herbicides and pesticides; and
19 “(ix) the enforcement of public health
20 and safety standards, including—
21 “(I) standards for the protection
22 of workers and well construction; and
23 “(II) codes governing the con-
24 struction of bridges, buildings, and
25 other structures.

1 “(B) COOS TRIBAL FOREST.—Nothing in
 2 this paragraph authorizes the State to manage
 3 fish or wildlife habitat on land comprising the
 4 Forest.

5 “(9) STATE AND PRIVATE LAND.—

6 “(A) IN GENERAL.—Nothing in this sub-
 7 section confers on the Tribe any authority over
 8 State or private land.

9 “(B) STATE REGULATION.—In a case in
 10 which, and to the extent that, the State regu-
 11 lates any State or private land under any dele-
 12 gated Federal authority or any Federal pro-
 13 gram, nothing in this subsection affects the au-
 14 thority of the State under the authority or pro-
 15 gram.

16 “(C) JOINT REGULATION.—In a case in
 17 which the Federal Government and the State
 18 jointly regulate any State or private land as de-
 19 scribed in subparagraph (B), nothing in this
 20 subsection affects the respective authority of
 21 the Federal Government and the State relating
 22 to regulation of the land.

23 “(D) TRIBAL REGULATION.—In a case in
 24 which, and to the extent that, Federal law au-
 25 thorizes the Tribe to assume regulatory author-

1 ity over any area, nothing in this subsection af-
 2 fects the ability of the Tribe to exercise that au-
 3 thority.

4 “(E) ENFORCEMENT AGAINST TRIBE.—

5 “(i) IN GENERAL.—Unless, and except
 6 to any extent that, the Tribe assumes ju-
 7 risdiction over the Forest in accordance
 8 with Federal law (or in accordance with
 9 any other law with the consent of the
 10 State), the State shall have the jurisdiction
 11 and authority to enforce laws of the State
 12 relating to matters described in paragraph
 13 (8)(A) on land comprising the Forest, in
 14 the same manner and with the same rem-
 15 edies, protections, and appeal rights as
 16 otherwise provided by State law, against—

17 “(I) the Tribe;

18 “(II) any individual member of
 19 the Tribe; and

20 “(III) any other person or entity.

21 “(ii) TRIBAL AUTHORITY.—In a case
 22 in which the State and the Tribe enter into
 23 an agreement with respect to the exercise
 24 of tribal civil regulatory jurisdiction over
 25 an activity on land comprising the Forest,

1 the Tribe may exercise that jurisdiction in
2 accordance with the agreement.

3 “(10) CONTROLLING LEGAL AUTHORITY.—In
4 the event of a conflict between Federal and State
5 law under this subsection, Federal law shall control.

6 “(11) WATERSHED RESTORATION ACCOUNT.—

7 “(A) IN GENERAL.—During the 15-year
8 period beginning on the date of enactment of
9 this subsection, the Tribe shall establish and
10 maintain a separate account for watershed res-
11 toration purposes.

12 “(B) DEPOSITS.—For each fiscal year, the
13 Tribe shall deposit in the account an amount
14 equal to 20 percent of gross revenue from the
15 sale of forest products derived from the Forest
16 during the fiscal year.

17 “(C) EXPENDITURES.—The Tribe shall ex-
18 pend funds from the account only for watershed
19 restoration purposes.

20 “(12) LAND EXCHANGES.—

21 “(A) IN GENERAL.—Not more than 15
22 percent of the land designated under paragraph
23 (2)(A)(ii) shall be available for land exchanges
24 with Federal or non-Federal landowners that—

1 “(i) to the maximum extent prac-
2 ticable, use the best available scientific
3 data and modeling (including, to the extent
4 appropriate and feasible, data and mod-
5 eling developed by the Umpqua Land Ex-
6 change Project); and

7 “(ii) achieve 1 or more of the goals
8 described in subparagraph (B).

9 “(B) GOALS.—The goals referred to in
10 subparagraph (A) are—

11 “(i) the enhancement of habitat val-
12 ues, including connectivity, for terrestrial,
13 aquatic, and managed species listed under
14 the Endangered Species Act of 1973 (16
15 U.S.C. 1531 et seq.);

16 “(ii) the improvement of riparian cor-
17 ridors for the purpose of enhancing water
18 quality, water quantity, or habitat condi-
19 tions;

20 “(iii) the improvement of land man-
21 agement processes and plans, that are de-
22 veloped and approved in accordance appli-
23 cable law, on Federal land adjacent to or
24 near the Forest;

1 “(iv) the inclusion of land in each of
 2 the Coos River, lower Umpqua River, and
 3 Siuslaw River watersheds; and

4 “(v) the protection and enhancement
 5 of cultural and archaeological values of the
 6 Tribe.

7 “(C) APPROVAL AND DISAPPROVAL.—Not
 8 later than 180 days after the date on which the
 9 Tribe or any other entity initiates a land ex-
 10 change under this paragraph, the Secretary
 11 shall make a final determination of approval or
 12 disapproval of the land exchange.

13 “(D) EQUAL VALUE.—The fair market
 14 value of any land or interests in land exchanged
 15 under this paragraph—

16 “(i) shall be equal, as determined
 17 through the use of nationally recognized
 18 appraisal standards (including, to the ex-
 19 tent appropriate, the Uniform Standards
 20 for Federal Land Acquisition and the Uni-
 21 form Standards of Professional Appraisal
 22 Practice); or

23 “(ii) shall be equalized through the
 24 payment of cash in accordance with section
 25 206(d) of the Federal Land Policy and

1 Management Act of 1976 (43 U.S.C.
2 1716(d)) and other applicable law.

3 “(E) TRANSFER OF LAND TO TRIBAL
4 TRUST STATUS.—Any land acquired as a result
5 of an exchange under this paragraph shall—

6 “(i) be taken into trust by the Sec-
7 retary in accordance with paragraph
8 (2)(A)(i);

9 “(ii) become part of the Forest; and

10 “(iii) be managed in accordance with
11 this subsection.

12 “(F) TERMINATION OF EXCHANGE AU-
13 THORITY.—The authority to conduct a land ex-
14 change under this paragraph shall terminate on
15 the date that is 5 years after the date of enact-
16 ment of this subsection if, on or before that
17 date, an entity other than the Tribe—

18 “(i) initiates the land exchange; and

19 “(ii) fails to offer the land of the enti-
20 ty that is to be exchanged.

21 “(13) TIMBER REVENUE PAYMENTS TO COUN-
22 TIES.—

23 “(A) IN GENERAL.—Nothing in this sub-
24 section shall affect any timber revenue payment
25 to any county.

1 “(B) APPLICABILITY TO FOREST.—The
2 method of determining and assessing timber
3 revenue payments for Siuslaw National Forest
4 land that is adjacent to the Forest shall be ap-
5 plicable to the Forest.

6 “(14) AUTHORIZATION OF APPROPRIATIONS.—
7 There are authorized to be appropriated such sums
8 as are necessary to carry out this subsection.”.

○