

109TH CONGRESS  
1ST SESSION

# H. R. 852

To extend Federal recognition to the Duwamish Tribe, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

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

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## A BILL

To extend Federal recognition to the Duwamish Tribe, 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; FINDINGS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Duwamish Tribal Recognition Act”.

6       (b) FINDINGS.—Congress finds the following:

7               (1) In 1855, the Duwamish Tribe signed the  
8       Treaty of Point Elliott, which guaranteed fishing  
9       rights and reservations to all tribes represented by  
10      the Native signatories.

1           (2) The Duwamish signatory was their Chief,  
2 Chief Si'ahl, for whom the City of Seattle is named.

3           (3) In 1859, the Treaty of Point Elliott was  
4 ratified by Congress. However, the promises made  
5 by the United States in the treaty were never ful-  
6 filled as to the Duwamish Tribe or its members.

7           (4) In 1925, the Duwamish Tribe officially  
8 adopted its constitution and bylaws.

9           (5) The Duwamish Tribe filed suit before the  
10 Indian Claims Commission for the value of its lands  
11 taken without compensation and a \$62,000 judg-  
12 ment ultimately was awarded to the Duwamish. The  
13 settlement was eventually distributed per capita at  
14 \$64 per person to the Duwamish people.

15           (6) In 1976, the Duwamish Tribe first sub-  
16 mitted a petition for Federal recognition to the Sec-  
17 retary of the Interior. That petition subsequently  
18 was returned to the tribe for revision due to changes  
19 in regulations governing the administrative federal  
20 acknowledgment process.

21           (7) In 1988, the Duwamish Tribe submitted its  
22 completed petition for Federal recognition.

23           (8) In 1996, after years of delay, the Duwamish  
24 Tribe received a negative preliminary determination.

1 In response, the tribe addressed the identified prob-  
2 lems in its final submission of October 21, 1998.

3 (9) On January 19, 2001, the Duwamish Tribe  
4 received a favorable determination for federal rec-  
5 ognition from the Assistant Secretary of the Interior  
6 for Indian Affairs.

7 (10) On September 26, 2001, the new Assistant  
8 Secretary for Indian Affairs unilaterally reversed the  
9 January 19, 2001, decision and rejected the  
10 Duwamish petition for recognition.

11 (11) On January 4, 2002, the Interior Board of  
12 Indian Appeals referred several questions raised by  
13 the circumstances of the administrative reversal to  
14 the Secretary of the Interior along with directions to  
15 decide whether to request further reconsideration by  
16 the Assistant Secretary for Indian Affairs in light of  
17 those questions.

18 (12) On May 8, 2002, the Secretary of the In-  
19 terior refused to refer the Duwamish petition back  
20 to the Assistant Secretary for Indian Affairs for fur-  
21 ther consideration.

22 (13) Nearly 150 years after the Duwamish  
23 Tribe signed the Point Elliott Treaty, the Duwamish  
24 people still seek the recognition which was estab-  
25 lished by the treaty.

1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act, the following definitions  
3 apply:

4 (1) MEMBER.—The term “member” means an  
5 enrolled member of the Duwamish Tribe, as of the  
6 date of the enactment of this Act, or an individual  
7 who has been placed on the membership rolls in ac-  
8 cordance with this Act.

9 (2) SECRETARY.—The term “Secretary” means  
10 the Secretary of the Interior.

11 (3) TRIBE.—The term “Tribe” means the  
12 Duwamish Tribe.

13 **SEC. 3. FEDERAL RECOGNITION.**

14 Federal recognition is hereby extended to the  
15 Duwamish Tribe. All laws and regulations of the United  
16 States of general application to Indians, or nations, tribes,  
17 or band of Indians, including the Act of June 18, 1934  
18 (25 U.S.C. 461 et seq.) which are not inconsistent with  
19 any specific provision of this Act, shall be applicable to  
20 the Tribe and its members.

21 **SEC. 4. FEDERAL SERVICES AND BENEFITS.**

22 (a) IN GENERAL.—The Tribe and its members shall  
23 be eligible, on and after the date of the enactment of this  
24 Act, for all services and benefits provided by the Federal  
25 Government to federally recognized tribes without regard  
26 to the existence of a reservation for the Tribe or the loca-

1 tion of the residence of any member on or near any Indian  
2 reservation.

3 (b) SERVICE AREA.—For purposes of the delivery of  
4 Federal services to enrolled members of the Tribe, the  
5 Tribe’s service area shall consist of the following: King  
6 County, Kitsap County, Pierce County, Lewis County, and  
7 Mason County.

8 **SEC. 5. MEMBERSHIP.**

9 Not later than 9 months after the date of the enact-  
10 ment of this Act, the Tribe shall submit to the Secretary  
11 a membership roll consisting of all individuals enrolled in  
12 the Tribe. The qualifications for inclusion on the member-  
13 ship roll of the Tribe shall be determined by the member-  
14 ship clauses in the Tribe’s governing document, in con-  
15 sultation with the Secretary. Upon completion of the roll,  
16 the Secretary shall immediately publish notice of the roll  
17 in the Federal Register. The Tribe shall ensure that such  
18 roll is maintained and kept current.

19 **SEC. 6. CONSTITUTION AND GOVERNING BODY.**

20 (a) CONSTITUTION.—

21 (1) ADOPTION.—Not later than 9 months after  
22 the date of the enactment of this Act, the Tribe  
23 shall conduct, by secret ballot, an election to adopt  
24 a constitution and bylaws for the Tribe.

1           (2) INTERIM GOVERNING DOCUMENTS.—Until  
2       such time as a new constitution is adopted under  
3       paragraph (1), the governing documents in effect on  
4       the date of the enactment of this Act shall be the  
5       interim governing documents for the Tribe which  
6       were submitted to the Department of the Interior  
7       during the acknowledgment petition process.

8       (b) OFFICIALS.—Not later than 6 months after the  
9       Tribe adopts a constitution and bylaws pursuant to sub-  
10      section (a), the Tribe shall elect a governing body in ac-  
11      cordance with the procedures set forth in its constitution  
12      and bylaws. Until such time as a new governing body is  
13      elected, the governing body of the Tribe shall be the gov-  
14      erning body selected under the election procedures speci-  
15      fied in the interim governing documents of the Tribe.

16   **SEC. 7. LAND IN TRUST.**

17       (a) REQUIREMENT TO TAKE LAND INTO TRUST.—  
18      If, not later than 10 years after the date of the enactment  
19      of this Act, the Tribe transfers all right, title, and interest  
20      in and to any land within the Tribe’s service area identi-  
21      fied under section 4(b) or land identified under subsection  
22      (b) as its aboriginal homelands to the Secretary, the Sec-  
23      retary shall take such land into trust for the benefit of  
24      the Tribe.

1       (b) IDENTIFICATION OF ABORIGINAL LANDS.—Not  
2 later than 10 years after the date of the enactment of this  
3 Act, the Secretary of the Interior and the Secretary of Ag-  
4 riculture shall identify those lands which shall be consid-  
5 ered the aboriginal homelands of the Tribe for the pur-  
6 poses of subsection (a).

7       (c) NO FEDERAL LIABILITY ON TRUST ACCEPT-  
8 ANCE.—Notwithstanding any other provision of law, the  
9 United States should not incur any liability for conditions  
10 on any parcels of land taken into trust under this section.

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