

111TH CONGRESS
2D SESSION

H. R. 4613

To settle land claims within the Fort Hall Reservation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2010

Mr. SIMPSON (for himself and Mr. MINNICK) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To settle land claims within the Fort Hall Reservation.

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 “Blackfoot River Land
5 Settlement Act of 2010”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) it is the policy of the United States to pro-
9 mote tribal self-determination and economic self-suf-
10 ficiency and encourage the resolution of disputes
11 over historical claims through mutually agreed-upon

1 settlements between Indian tribes and the United
2 States;

3 (2) the Shoshone-Bannock Tribes, a federally
4 recognized Indian tribe with tribal headquarters at
5 Fort Hall, Idaho—

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

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

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

19 (3)(A) in 1867, President Andrew Johnson des-
20 ignated by Executive order the Fort Hall Reserva-
21 tion for various bands of Shoshone and Bannock In-
22 dians;

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

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

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

7 (i) is the northern boundary of the Res-
8 ervation; and

9 (ii) flows in a westerly direction along that
10 northern boundary; and

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

13 (i) rangeland;

14 (ii) dry and irrigated farming; and

15 (iii) residential development;

16 (5)(A) in 1964, the Corps of Engineers com-
17 pleted a local flood protection project on the River—

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

20 (ii) sponsored by the Blackfoot River Flood
21 Control District No. 7;

22 (B) the project consisted of building levees, re-
23 placing irrigation diversion structures, replacing
24 bridges, and channel realignment; and

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

7 (6) beginning in 1999, the Cadastral Survey
8 Office of the Bureau of Land Management con-
9 ducted surveys of—

10 (A) 25 parcels of Indian land; and

11 (B) 19 parcels of non-Indian land;

12 (7) in 1988, many non-Indian landowners and
13 non-Indians acquiring Indian land filed claims in the
14 Snake River Basin Adjudication seeking water rights
15 that included a place of use on Indian land; and

16 (8) the enactment of this Act and the distribu-
17 tion of funds in accordance with section 12(b) would
18 represent an agreement among—

19 (A) the Tribes;

20 (B) the allottees;

21 (C) the non-Indians acquiring Indian land;

22 and

23 (D) the non-Indian landowners.

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

(1) to resolve the disputes resulting from re-alignment of the River by the Corps of Engineers during calendar year 1964 pursuant to the project described in subsection (a)(5)(A); and

(2) to achieve a fair, equitable, and final settlement of all claims and potential claims arising from those disputes.

SEC. 3. DEFINITIONS.

In this Act:

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

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

(B) located north of the Realigned River within the exterior boundaries of the Reservation.

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

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

(B) located north of the Realigned River; and

(C) identified in exhibit C of the survey of the Bureau of Land Management titled “Survey

1 of the Blackfoot River of 2002 to 2005”, which
2 is located at—

3 (i) the Fort Hall Indian Agency office
4 of the Bureau of Indian Affairs; and

5 (ii) the Blackfoot River Flood Control
6 District No. 7, 75 East Judicial, Black-
7 foot, Idaho.

8 (3) NON-INDIAN ACQUIRING INDIAN LAND.—

9 The term “non-Indian acquiring Indian land” means
10 any individual or entity that—

11 (A) has acquired or plans to acquire In-
12 dian land; and

13 (B) is included on the list in exhibit C of
14 the survey referred to in paragraph (2)(C).

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 of the survey re-
20 ferred to in paragraph (2)(C).

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

24 (6) REALIGNED RIVER.—The term “Realigned
25 River” means that portion of the River that was re-

1 aligned by the Corps of Engineers during calendar
2 year 1964 pursuant to the project described in sec-
3 tion 2(a)(5).

4 (7) RESERVATION.—The term “Reservation”
5 means the Fort Hall Reservation established by Ex-
6 ecutive order during calendar year 1867.

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

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

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

13 **SEC. 4. EXTINGUISHMENT OF CLAIMS AND TITLE.**

14 Except as provided in sections 5 and 6, effective be-
15 ginning on the date on which the amounts appropriated
16 pursuant to section 12 are distributed in accordance with
17 that section, all claims and all past, present, and future
18 right, title, and interest in and to the Indian land and
19 non-Indian land shall be extinguished.

20 **SEC. 5. LAND TO BE PLACED INTO TRUST FOR TRIBES.**

21 Effective beginning on the date on which the amounts
22 appropriated pursuant to section 12 are distributed in ac-
23 cordance with that section to the Blackfoot River Flood
24 Control District No. 7, the non-Indian land shall be con-

sidered to be held in trust by the United States for the
benefit of the Tribes.

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

Effective beginning on the date on which the amounts
appropriated pursuant to section 12 are distributed in ac-
cordance with that section to the tribal trust fund account
and the allottee trust account, the Indian land shall be
transferred to the Blackfoot River Flood Control District
No. 7 for conveyance to the non-Indians acquiring Indian
land.

**SEC. 7. TRIBAL TRUST FUND ACCOUNT AND ALLOTTEE
TRUST ACCOUNT.**

(a) TRIBAL TRUST FUND ACCOUNT.—

(1) ESTABLISHMENT.—There is established in
the Treasury of the United States an account, to be
known as the “tribal trust fund account”, consisting
of such amounts as are deposited in the account
under section 12(b)(1).

(2) INVESTMENT.—The Secretary of the Treas-
ury shall invest amounts in the tribal trust fund ac-
count for the benefit of the Tribes, in accordance
with applicable laws and regulations.

(3) DISTRIBUTION.—The Secretary of the
Treasury shall distribute amounts in the tribal trust

1 fund account to the Tribes pursuant to a budget
2 adopted by the Tribes that describes—

3 (A) the amounts required by the Tribes;
4 and

5 (B) the intended uses of the amounts, in
6 accordance with paragraph (4).

7 (4) USE OF FUNDS.—The Tribes may use
8 amounts in the tribal trust fund account (including
9 interest earned on those amounts), without fiscal
10 year limitation, for activities relating to—

11 (A) construction of a natural resources fa-
12 cility;

13 (B) water resources needs;

14 (C) economic development;

15 (D) land acquisition; and

16 (E) such other purposes as the Tribes de-
17 termine to be appropriate.

18 (b) ALLOTTEE TRUST ACCOUNT.—

19 (1) ESTABLISHMENT.—There is established in
20 the Treasury of the United States an account, to be
21 known as the “allottee trust account”, consisting of
22 such amounts as are deposited in the account under
23 section 12(b)(2).

24 (2) DEPOSIT INTO IIMS.—Not later than 60
25 days after the date on which amounts are deposited

1 in the allottee trust account under section 12(b)(2),
2 the Secretary of the Treasury shall deposit the
3 amounts into individual Indian money accounts for
4 the allottees.

5 (3) INVESTMENT.—The Secretary of the Treas-
6 ury shall invest amounts in the individual Indian
7 money accounts under paragraph (2) in accordance
8 with applicable laws and regulations.

9 **SEC. 8. ATTORNEYS FEES.**

10 (a) IN GENERAL.—Subject to subsection (b), of the
11 amounts appropriated pursuant to section 12(a), the Sec-
12 retary shall pay to the attorneys of the Tribes and the
13 non-Indian landowners such attorneys fees as are ap-
14 proved by the Tribes and the non-Indian landowners.

15 (b) LIMITATION.—The total amount of attorneys fees
16 paid by the Secretary under subsection (a) shall not exceed
17 2 percent of the amounts distributed to the Tribes,
18 allottees, and the non-Indian landowners under section
19 12(b).

20 **SEC. 9. EFFECT ON ORIGINAL RESERVATION BOUNDARY.**

21 Nothing in this Act affects the original boundary of
22 the Reservation, as established by Executive order during
23 calendar year 1867 and confirmed by treaty during cal-
24 endar year 1868.

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

2 Nothing in this Act extinguishes or conveys any water
3 right of the Tribes, as established in the agreement enti-
4 tled “1990 Fort Hall Indian Water Rights Agreement”
5 and ratified by section 4 of the Fort Hall Indian Water
6 Rights Act of 1990 (Public Law 101–602; 104 Stat.
7 3060).

8 **SEC. 11. DISCLAIMERS REGARDING CLAIMS.**

9 Nothing in this Act—

10 (1) affects in any manner the sovereign claim
11 of the State of Idaho to title in and to the beds and
12 banks of the River under the equal footing doctrine
13 of the Constitution of the United States;

14 (2) affects any action by the State of Idaho to
15 establish that title under section 2409a of title 28,
16 United States Code (commonly known as the “Quiet
17 Title Act”);

18 (3) affects the ability of the Tribes or the
19 United States to claim ownership of the beds and
20 banks of the River; or

21 (4) extinguishes or conveys any water rights of
22 non-Indian landowners or the claims of the land-
23 owners to water rights in the Snake River Basin Ad-
24 judication.

1 **SEC. 12. FUNDING.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
3 authorized to be appropriated to carry out this Act
4 \$1,000,000.

5 (b) DISTRIBUTION.—After the date on which all at-
6 torneys fees are paid under section 8, the amount appro-
7 priated pursuant to subsection (a) shall be distributed
8 among the Tribes, the allottees, and the Blackfoot River
9 Flood Control District No. 7 as follows:

10 (1) 28 percent shall be deposited into the tribal
11 trust fund account established by section 7(a)(1).

12 (2) 25 percent shall be deposited into the allot-
13 tee trust account established by section 7(b)(1).

14 (3) 47 percent shall be provided to the Black-
15 foot River Flood Control District No. 7 for—

16 (A) distribution to the non-Indian land-
17 owners on a pro rata, per-acre basis; and

18 (B) associated administrative expenses.

19 (c) PER CAPITA PAYMENTS PROHIBITED.—No
20 amount received by the Tribes under this Act shall be dis-
21 tributed to a member of the Tribes on a per capita basis.

22 **SEC. 13. EFFECTIVE DATE.**

23 This Act takes effect on the date on which the
24 amount described in section 12(a) is appropriated.

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