

114TH CONGRESS
1ST SESSION

H. R. 3599

To take certain Federal lands in Tennessee into trust for the benefit of the Eastern Band of Cherokee Indians, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2015

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

A BILL

To take certain Federal lands in Tennessee into trust for the benefit of 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eastern Band Cher-
5 okee Historic Lands Reacquisition Act”.

6 **SEC. 2. LAND TAKEN INTO TRUST FOR THE EASTERN BAND**
7 **OF CHEROKEE INDIANS.**

8 (a) LANDS INTO TRUST.—Subject to such rights of
9 record as may be vested in third parties to rights-of-way
10 or other easements or rights-of-record for roads, utilities,

1 or other purposes, the following Federal lands on or above
2 the 820-foot (MSL) contour elevation in Monroe County,
3 Tennessee, on the shores of Tellico Reservoir, are taken
4 into trust by the United States for the benefit of the East-
5 ern Band of Cherokee Indians:

6 (1) SEQUOYAH MUSEUM PROPERTY.—Approximately 46.0 acres of land generally depicted as
7 “Sequoyah Museum”, “Parcel 1”, and “Parcel 2”
8 on the map titled “Eastern Band of Cherokee His-
9 toric Lands Reacquisition Map 1” and dated April
10 30, 2015.

12 (2) SUPPORT PROPERTY.—Approximately 11.9
13 acres of land generally depicted as “Support Parcel”
14 on the map titled “Eastern Band of Cherokee His-
15 toric Lands Reacquisition Map 2” and dated April
16 30, 2015.

17 (3) CHOTA MEMORIAL PROPERTY AND TANASI
18 MEMORIAL PROPERTY.—Approximately 18.2 acres of
19 land generally depicted as “Chota Memorial 1” and
20 “Tanasi Memorial” on the map titled “Eastern
21 Band of Cherokee Historic Lands Reacquisition Map
22 3” and dated April 30, 2015, and including the
23 Chota Memorial and all land within a circle with a
24 radius of 86 feet measured from the center of the

1 Chota Memorial without regard to the elevation of
2 the land within the circle.

3 (b) PROPERTY ON LANDS.—In addition to the land
4 taken into trust by subsection (a), the improvements on
5 and appurtenances thereto, including memorials, are and
6 shall remain the property of the Eastern Band of Cher-
7 okee Indians.

8 (c) ADDITIONAL LANDS INTO TRUST.—The Eastern
9 Band of Cherokee Indians may identify additional Federal
10 lands on or above the 820-foot (MSL) contour elevation
11 managed by the Tennessee Valley Authority that are of
12 significant historical and cultural importance to the Cher-
13 okee and such lands shall be taken into trust by the
14 United States for the benefit of the Eastern Band of Cher-
15 okee Indians, if the Tennessee Valley Authority, Secretary
16 of the Interior, and Eastern Band of Cherokee Indians
17 agree to such lands being taken into trust.

18 (d) REVISED MAPS.—Not later than one year after
19 the date of a land transaction made pursuant to this sec-
20 tion, the Secretary of the Interior, after consultation with
21 the Eastern Band of Cherokee Indians and the Tennessee
22 Valley Authority, shall submit revised maps that depict
23 the land taken into trust under this section, including any
24 corrections made to the maps described in this section to
25 the Committee on Natural Resources of the House of Rep-

1 representatives and the Committee on Indian Affairs of the
2 Senate.

3 (e) CONTOUR ELEVATION CLARIFICATION.—The
4 contour elevations referred to in this Act are based on
5 MSL Datum as established by the NGS Southeastern
6 Supplementary Adjustment of 1936 (NGVD29).

7 (f) CONDITIONS.—The lands taken into trust under
8 this section shall be subject to the conditions described
9 in section 5.

10 **SEC. 3. PERMANENT EASEMENTS TAKEN INTO TRUST FOR**
11 **THE EASTERN BAND OF CHEROKEE INDIANS.**

12 (a) PERMANENT EASEMENTS.—The following perma-
13 nent easements for land below the 820-foot (MSL) con-
14 tour elevation for the following Federal lands in Monroe
15 County, Tennessee, on the shores of Tellico Reservoir, are
16 hereby taken into trust by the United States for the ben-
17 efit of the Eastern Band of Cherokee Indians:

18 (1) CHOTA PENINSULA.—Approximately 8.5
19 acres of land generally depicted as “Chota Memorial
20 2” on the map titled “Eastern Band of Cherokee
21 Historic Lands Reacquisition Map 3” and dated
22 April 30, 2015.

23 (2) CHOTA-TANASI TRAIL.—Approximately 11.4
24 acres of land generally depicted as “Chota-Tanasi
25 Trail” on the map titled “Eastern Band of Cherokee

1 Historic Lands Reacquisition Map 3” and dated
2 April 30, 2015.

3 (b) ADDITIONAL EASEMENTS.—The Eastern Band of
4 Cherokee Indians may identify additional Federal lands
5 below the 820-foot (MSL) contour elevation managed by
6 the Tennessee Valley Authority that are, or are appur-
7 tenant to, lands of significant historical and cultural im-
8 portance to the Cherokee and a permanent easement for
9 such lands shall be taken into trust by the United States
10 for the benefit of the Eastern Band of Cherokee Indians,
11 if the Tennessee Valley Authority, Secretary of the Inte-
12 rior, and Eastern Band of Cherokee Indians agree to such
13 grant.

14 (c) REVISED MAPS.—Not later than one year after
15 the date of a land transaction made pursuant to this sec-
16 tion, the Secretary of the Interior, after consultation with
17 the Eastern Band of Cherokee Indians and the Tennessee
18 Valley Authority, shall submit to the Subcommittee on In-
19 dian, Insular and Alaska Native Affairs of the House of
20 Representatives and the Committee on Indian Affairs of
21 the Senate revised maps that depict the lands subject to
22 easements taken into trust under this section, including
23 any corrections necessary to the maps described in this
24 section.

1 (d) CONDITIONS.—The lands subject to easements
2 taken into trust under this section shall be subject to the
3 use rights and conditions described in section 5.

4 **SEC. 4. TRUST ADMINISTRATION AND PURPOSES.**

5 (a) APPLICABLE LAWS.—Except as described in sec-
6 tion 5, the lands subject to this Act shall be administered
7 under the laws and regulations generally applicable to
8 lands and interests in lands held in trust on behalf of In-
9 dian Tribes.

10 (b) USE OF LAND.—Except the lands described in
11 section 2(a)(2), the lands subject to this Act shall be used
12 principally for memorializing and interpreting the history
13 and culture of Indians and recreational activities, includ-
14 ing management, operation, and conduct of programs of
15 and for—

16 (1) the Sequoyah birthplace memorial and mu-
17 seum;

18 (2) the memorials to Chota and Tanasi as
19 former capitals of the Cherokees;

20 (3) the memorial and place of reinterment for
21 remains of the Eastern Band of Cherokee Indians
22 and other Cherokee tribes, including those human
23 remains and cultural items that are repatriated by
24 the Tennessee Valley Authority to those Cherokee

1 tribes under the National Graves Protection and Re-
2 patriation Act; and

3 (4) interpreting the Trail of Tears National
4 Historic Trail.

5 (c) USE OF SUPPORT PROPERTY.—The land de-
6 scribed in section 2(a)(2) shall be used principally for the
7 support of lands subject to this Act and the programs of-
8 fered by the Tribe relating to such lands and their pur-
9 poses including—

10 (1) classrooms and conference rooms;

11 (2) cultural interpretation and education pro-
12 grams;

13 (3) temporary housing of guests participating
14 in such programs or the management of the prop-
15 erties and programs; and

16 (4) headquarters offices and support space for
17 the trust properties and programs.

18 (d) LAND USE.—The principal purposes of the use
19 of the land described in section 3(a)—

20 (1) paragraph (1), shall be for a recreational
21 trail from the general vicinity of the parking lot to
22 the area of the Chota Memorial and beyond to the
23 southern portion of the peninsula, including inter-
24 pretive signs, benches, and other compatible im-
25 provements; and

1 (2) paragraph (2), shall be for a recreational
2 trail between the Chota and Tanasi Memorials, in-
3 cluding interpretive signs, benches, and other com-
4 patible improvements.

5 **SEC. 5. USE RIGHTS, CONDITIONS.**

6 (a) FLOODING OF LAND AND ROADS.—The Ten-
7 nessee Valley Authority may temporarily and intermit-
8 tently flood the lands subject to this Act that lie below
9 the 824-foot (MSL) contour elevation and the road access
10 to such lands that lie below the 824-foot (MSL) contour
11 elevation.

12 (b) FACILITIES AND STRUCTURES.—The Eastern
13 Band of Cherokee Indians may construct, own, operate,
14 and maintain—

15 (1) water use facilities and nonhabitable struc-
16 tures, facilities, and improvements not subject to se-
17 rious damage if temporarily flooded on the land ad-
18 joining the Tellico Reservoir side of the lands subject
19 to this Act that lie between the 815-foot and 820-
20 foot (MSL) contour elevations, but only after having
21 received written consent from the Tennessee Valley
22 Authority and subject to the terms of such approval;
23 and

24 (2) water use facilities between the 815-foot
25 (MSL) contour elevations on the Tellico Reservoir

1 side of the lands subject to this Act and the adjacent
2 waters of Tellico Reservoir and in and on such
3 waters after having received written consent from
4 the Tennessee Valley Authority and subject to the
5 terms of such approval, but may not construct, own,
6 operate, or maintain other nonhabitable structures,
7 facilities, and improvements on such lands.

8 (c) INGRESS AND EGRESS.—The Eastern Band of
9 Cherokee Indians may use the lands subject to this Act
10 and Tellico Reservoir for ingress and egress to and from
11 such land and the waters of the Tellico Reservoir and to
12 and from all structures, facilities, and improvements main-
13 tained in, on, or over such land or waters.

14 (d) RIVER CONTROL AND DEVELOPMENT.—The use
15 rights under this section may not be exercised so as to
16 interfere in any way with the Tennessee Valley Authority's
17 statutory program for river control and development.

18 (e) TVA AUTHORITIES.—Nothing in this Act shall be
19 construed to affect the right of the Tennessee Valley Au-
20 thority to—

- 21 (1) draw down Tellico Reservoir;
- 22 (2) fluctuate the water level thereof as may be
23 necessary for its management of the Reservoir; or

1 (3) permanently flood lands adjacent to lands
2 subject to this Act that lie below the 815-foot (MSL)
3 contour elevation.

4 (f) RIGHT OF ENTRY.—The lands subject to this Act
5 shall be subject to a reasonable right of entry by the per-
6 sonnel of the Tennessee Valley Authority and agents of
7 the Tennessee Valley Authority operating in their official
8 capacities as necessary for purposes of carrying out the
9 Tennessee Valley Authority’s statutory program for river
10 control and development.

11 (g) ENTRY ONTO LAND.—To the extent that the
12 Tennessee Valley Authority’s operations on the lands sub-
13 ject to this Act do not unreasonably interfere with the
14 Eastern Band of Cherokee Indians’ maintenance of an ap-
15 propriate setting for the memorialization of Cherokee his-
16 tory or culture on the lands and its operations on the
17 lands, the Eastern Band of Cherokee Indians shall allow
18 the Tennessee Valley Authority to enter the lands to clear,
19 ditch, dredge, and drain said lands and apply larvicides
20 and chemicals thereon or to conduct bank protection work
21 and erect structures necessary in the promotion and fur-
22 therance of public health, flood control, and navigation.

23 (h) LOSS OF HYDROPOWER CAPACITY.—All future
24 development of the lands subject to this Act shall be sub-
25 ject to compensation to the Tennessee Valley Authority

1 for loss of hydropower capacity as provided in the Ten-
2 nessee Valley Authority Flood Control Storage Loss
3 Guideline, unless agreed to otherwise by the Tennessee
4 Valley Authority.

5 (i) PROTECTION FROM LIABILITY.—The Tennessee
6 Valley Authority shall not be liable for any loss or damage
7 resulting from—

8 (1) the temporary and intermittent flooding of
9 lands subject to this Act;

10 (2) the permanent flooding of adjacent lands as
11 provided in this section;

12 (3) wave action in Tellico Reservoir; or

13 (4) fluctuation of water levels for purposes of
14 managing Tellico Reservoir.

15 **SEC. 6. LANDS SUBJECT TO THE ACT.**

16 For the purposes of this Act, the term “lands subject
17 to this Act” means lands and interests in lands (including
18 easements) taken into trust for the benefit of the Eastern
19 Band of Cherokee Indians pursuant to or under this Act.

20 **SEC. 7. GAMING PROHIBITION.**

21 No class II or class III gaming, as defined in the In-
22 dian Gaming Regulatory Act (25 U.S.C. 2701 et seq.),
23 shall be conducted on lands subject to this Act.

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