

Calendar No. 514

114TH CONGRESS
2D SESSION**S. 1879****[Report No. 114–275]**

To improve processes in the Department of the Interior, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2015

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

JUNE 9, 2016

Reported by Mr. BARRASSO, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To improve processes in the Department of the Interior,
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 “Interior Improvement
5 Act”.

1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—The first sentence of section 19
3 of the Act of June 18, 1934 (commonly known as the “In-
4 dian Reorganization Act”) (25 U.S.C. 479), is amended—

5 (1) by striking “The term” and inserting “Ef-
6 fective beginning on June 18, 1934, the term”; and

7 (2) by striking “any recognized Indian tribe
8 now under Federal jurisdiction” and inserting “any
9 federally recognized Indian tribe”.

10 (b) RETROACTIVE PROTECTION.—To the extent a
11 trust acquisition by the Secretary of the Interior pursuant
12 to the Act of June 18, 1934 (commonly known as the “In-
13 dian Reorganization Act”) (25 U.S.C. 461 et seq.), is sub-
14 jected to a challenge based on whether an Indian tribe was
15 federally recognized or under Federal jurisdiction on June
16 18, 1934, that acquisition is ratified and confirmed.

17 **SEC. 3. LAND ACQUISITION APPLICATIONS.**

18 The Act of June 18, 1934 (commonly known as the
19 “Indian Reorganization Act”), is amended by inserting
20 after section 5 (25 U.S.C. 465) the following:

21 **“SEC. 5A. LAND ACQUISITION APPLICATIONS.**

22 **“(a) DEFINITIONS.—**In this section:

23 **“(1) APPLICANT.—**The term ‘applicant’ means
24 an Indian tribe or individual Indian (as defined in
25 section 4 of the Indian Self-Determination and Edu-

1 eation Assistance Act (25 U.S.C. 450b)) who sub-
 2 mits an application under subsection (b).

3 “(2) APPLICATION.—The term ‘application’
 4 means an application submitted to the Department
 5 by an Indian tribe or individual Indian under sub-
 6 section (b).

7 “(3) CONTIGUOUS.—The term ‘contiguous’—

8 “(A) means 2 parcels of land having a
 9 common boundary, notwithstanding the exist-
 10 ence of non-navigable waters or a public road or
 11 right-of-way; and

12 “(B) includes parcels that touch at a point.

13 “(4) CONTIGUOUS JURISDICTION.—The term
 14 ‘contiguous jurisdiction’ means any county, county
 15 equivalent, or Indian tribe with authority and con-
 16 trol over the land contiguous to the land under con-
 17 sideration in an application.

18 “(5) COUNTY AND COUNTY EQUIVALENT.—The
 19 terms ‘county’ and ‘county equivalent’ mean the
 20 largest territorial division for local government with-
 21 in a State with the authority to enter into enforce-
 22 able cooperative agreements with Indian tribes or in-
 23 dividual Indians, as appropriate.

24 “(6) DEPARTMENT.—The term ‘Department’
 25 means the Department of the Interior.

1 “(7) ECONOMIC IMPACT.—The term ‘economic
2 impact’ means any anticipated costs associated with
3 the development of or activity on the land under
4 consideration in an application, including associated
5 costs to a contiguous jurisdiction for utilities, public
6 works, public safety, roads, maintenance, and other
7 public service costs.

8 “(8) FINAL DECISION.—The term ‘final deci-
9 sion’ means a decision that is final for the Depart-
10 ment, as determined or defined by the Secretary.

11 “(9) INDIAN TRIBE.—The term ‘Indian tribe’
12 has the meaning given the term in section 4 of the
13 Indian Self-Determination and Education Assistance
14 Act (25 U.S.C. 450b).

15 “(10) SECRETARY.—The term ‘Secretary’
16 means the Secretary of the Interior.

17 “(b) APPLICATIONS.—

18 “(1) IN GENERAL.—An Indian tribe or indi-
19 vidual Indian seeking to have off-reservation fee or
20 restricted land taken into trust for the benefit of
21 that Indian tribe or individual Indian shall submit
22 an application to the Secretary at such time, in such
23 manner, and containing such information as this
24 section and the Secretary require.

1 “(2) REQUIREMENTS.—The Secretary may ap-
2 prove complete applications described in paragraph
3 (1) on a discretionary basis, subject to the condition
4 that the application includes—

5 “(A) a written request for approval of a
6 trust acquisition by the United States for the
7 benefit of the applicant;

8 “(B) the legal name of the applicant, in-
9 cluding, in the case of an applicant that is an
10 Indian tribe, the tribal name of the applicant as
11 the name appears in the list of recognized In-
12 dian tribes published by the Secretary in the
13 Federal Register pursuant to section 104 of the
14 Federally Recognized Indian Tribe List Act of
15 1994 (25 U.S.C. 479a–1);

16 “(C) a legal description of the land to be
17 acquired;

18 “(D) a description of the need for the pro-
19 posed acquisition of the property;

20 “(E) a description of the purpose for which
21 the property is to be used;

22 “(F) a legal instrument to verify current
23 ownership, such as a deed;

24 “(G) statutory authority for the proposed
25 acquisition of the property;

1 “(H) a business plan for management of
2 the land to be acquired, if the application is for
3 business purposes;

4 “(I) the location of the land to be acquired
5 relative to State and reservation boundaries;
6 and

7 “(J) a copy of any cooperative agreement
8 between the applicant and a contiguous juris-
9 diction.

10 “(3) FINAL DECISION.—After considering an
11 application described in this subsection and in ac-
12 cordance with subsection (c) and any other applica-
13 ble Federal law or regulation, a final decision to ap-
14 prove or deny the completed application shall be
15 issued.

16 “(c) STATUTORY NOTICE AND COMMENT REQUIRE-
17 MENTS.—

18 “(1) NOTICE AND COMMENT REQUIREMENTS
19 FOR INITIAL APPLICATIONS.—

20 “(A) NOTICE.—

21 “(i) IN GENERAL.—Not later than 30
22 days after the date on which the Secretary
23 receives an initial application, the Sec-
24 retary shall make that application, whether
25 complete or incomplete, available to the

public on the website of the Department,
subject to applicable Federal privacy laws.

~~“(ii) ADDITIONAL NOTICE REQUIRE-~~
~~MENT.—Not later than 30 days after the~~
~~date on which the Secretary receives an~~
~~initial application, the Secretary shall pro-~~
~~vide by certified mail notice of the applica-~~
~~tion to contiguous jurisdictions.~~

~~“(B) COMMENT.—Each contiguous juris-~~
~~diction notified under subparagraph (A)(ii)~~
~~shall have not fewer than 30 days, beginning on~~
~~the date that the contiguous jurisdiction re-~~
~~ceives the notice, to comment on that initial ap-~~
~~plication.~~

~~“(2) NOTICE REQUIREMENT FOR ANY APPLICA-~~
~~TION UPDATE, MODIFICATION, OR WITHDRAWAL.—~~

~~“(A) IN GENERAL.—If at any time an ap-~~
~~plication is updated, modified, or withdrawn,~~
~~not later than 5 days after the date on which~~
~~the Secretary receives notice of that update,~~
~~modification, or withdrawal, the Secretary shall~~
~~make that information available to the public~~
~~on the website of the Department, subject to~~
~~any applicable Federal privacy laws.~~

1 “(B) INCLUSION.—If an application has
 2 been updated or modified in any way, the notice
 3 described in subparagraph (A) shall include a
 4 description of the changes made and the up-
 5 dated or modified application, whether complete
 6 or incomplete, available on the website of the
 7 Department, subject to any applicable Federal
 8 privacy laws.

9 “(3) NOTICE AND COMMENT REQUIREMENTS
 10 FOR COMPLETED APPLICATIONS.—

11 “(A) NOTICE.—

12 “(i) IN GENERAL.—Not later than 30
 13 days after the date on which the Secretary
 14 receives a completed application, the Sec-
 15 retary shall make that application available
 16 to the public on the website of the Depart-
 17 ment, subject to any applicable Federal
 18 privacy laws.

19 “(ii) ADDITIONAL NOTICE REQUIRE-
 20 MENTS.—Not later than 30 days after the
 21 date on which the Secretary receives a
 22 completed application, the Secretary shall
 23 provide by certified mail notice of the ap-
 24 plication to contiguous jurisdictions.

1 ~~“(iii) PUBLICATION IN FEDERAL REG-~~
 2 ~~ISTER.—Not later than 5 days after the~~
 3 ~~date on which the Secretary receives a~~
 4 ~~completed application, the Secretary shall~~
 5 ~~publish in the Federal Register notice of~~
 6 ~~the completed application.~~

7 ~~“(B) COMMENT.—Contiguous jurisdictions~~
 8 ~~shall have not fewer than 30 days, beginning on~~
 9 ~~the date on which the contiguous jurisdiction~~
 10 ~~receives notice under subparagraph (A)(ii), to~~
 11 ~~comment on that completed application.~~

12 ~~“(4) NOTICE OF DECISION.—~~

13 ~~“(A) IN GENERAL.—Not later than 5 days~~
 14 ~~after a final decision to approve or deny an ap-~~
 15 ~~plication is issued, the Secretary shall issue a~~
 16 ~~notice of decision and make the notice of deci-~~
 17 ~~sion available to the public on the website of the~~
 18 ~~Department.~~

19 ~~“(B) PUBLICATION IN FEDERAL REG-~~
 20 ~~ISTER.—Not later than 5 days after a final de-~~
 21 ~~cision to approve or deny an application is~~
 22 ~~issued, the Secretary shall publish in the Fed-~~
 23 ~~eral Register the notice of decision described in~~
 24 ~~subparagraph (A).~~

25 ~~“(d) ENCOURAGING LOCAL COOPERATION.—~~

1 “(1) IN GENERAL.—The Secretary shall encour-
 2 age, but may not require, applicants to enter into co-
 3 operative agreements with contiguous jurisdictions.

4 “(2) COOPERATIVE AGREEMENTS.—

5 “(A) IN GENERAL.—The Secretary shall
 6 give weight and preference to an application
 7 with a cooperative agreement described in para-
 8 graph (1).

9 “(B) TERMS OF AGREEMENT.—A coopera-
 10 tive agreement described in paragraph (1) may
 11 include terms relating to mitigation, changes in
 12 land use, dispute resolution, fees, and other
 13 terms determined by the parties to be appro-
 14 priate.

15 “(C) SUBMISSION OF COOPERATIVE
 16 AGREEMENT.—

17 “(i) IN GENERAL.—If an applicant
 18 submits to the Secretary a cooperative
 19 agreement or multiple cooperative agree-
 20 ments executed between the applicant and
 21 contiguous jurisdictions, the Secretary
 22 shall issue a final decision to approve or
 23 deny a complete application not later
 24 than—

1 “(I) 60 days after the date of
2 completion of the review process
3 under the National Environmental
4 Policy Act of 1969 (42 U.S.C. 4321
5 et seq.) described in clause (ii); or

6 “(II) if that review process is not
7 applicable, 30 days after the date on
8 which a complete application is re-
9 ceived by the Secretary.

10 “(ii) **TIMELINE.**—Completion of the
11 review process under the National Environ-
12 mental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.) described in clause (i) may
14 refer to—

15 “(I) the issuance of a categorical
16 exclusion determination in accordance
17 with section 6.204 of title 40, Code of
18 Federal Regulations (or successor reg-
19 ulations);

20 “(II) an environmental assess-
21 ment finding of no significant impact
22 in accordance with section 6.206 of
23 title 40, Code of Federal Regulations
24 (or successor regulations); or

1 “(III) the issuance of a record of
2 decision in accordance with section
3 6.208 of title 40, Code of Federal
4 Regulations (or successor regulations).

5 “(iii) EFFECT OF FAILURE TO ISSUE
6 TIMELY FINAL DECISION.—If the Secretary
7 fails to issue a final decision by the date
8 described in clause (i), the application shall
9 be—

10 “(I) deemed approved on an
11 automatic basis; and

12 “(II) treated as a final decision.

13 “(D) COOPERATIVE AGREEMENT NOT SUB-
14 MITTED.—

15 “(i) IN GENERAL.—If an applicant
16 does not submit to the Secretary a cooper-
17 ative agreement executed between the ap-
18 plicant and contiguous jurisdictions, the
19 Secretary shall issue a written determina-
20 tion of mitigation by the date that is not
21 later than 30 days after a complete appli-
22 cation is received by the Secretary, which
23 shall—

24 “(I) describe whether any eco-
25 nomic impacts on contiguous jurisdic-

tions have been mitigated to the extent practicable; and

“(H) explain the basis of that determination.

“(ii) DETERMINATION OF MITIGATION.—The Secretary shall consider a determination of mitigation in making a final decision to approve or deny an application, but that determination shall not halt or unduly delay the regular processing of an application.

“(iii) CONSIDERATIONS.—In making a determination of mitigation described in clause (i), the Secretary shall take into consideration—

“(I) the anticipated economic impact of approving an application on contiguous jurisdictions; and

“(H) whether the absence of a cooperative agreement is attributable to the failure of any contiguous jurisdiction to work in good faith to reach an agreement with the applicant.

“(iv) NOTICE.—The Secretary shall provide by certified mail a copy of the de-

1 termination of mitigation described in
 2 clause (i) to the applicant and contiguous
 3 jurisdictions not less than 5 days after a
 4 determination of mitigation is issued.

5 “(v) GOOD FAITH PROTECTION.—

6 Failure to submit a cooperative agreement
 7 shall not prejudice an application if the
 8 Secretary determines that the failure to
 9 submit is attributable to the failure of any
 10 contiguous jurisdiction to work in good
 11 faith to reach an agreement.

12 “(3) RECIPROCAL NOTICE AND COMMENT.—

13 The Secretary shall also encourage contiguous juris-
 14 dictions to engage in local cooperation through recip-
 15 rocal notice and comment procedures, particularly
 16 with regard to changes in land use.

17 “(e) IMPLEMENTATION.—

18 “(1) CONSULTATION.—Not later than 60 days
 19 after the date of enactment of this section, the Sec-
 20 retary shall initiate consultation with Indian tribes
 21 regarding the implementation of this section.

22 “(2) SUMMARY.—Not later than 180 days after
 23 the date on which the consultation described in
 24 paragraph (1) is initiated, the Secretary shall issue

1 a summary of the consultation and the summary
2 shall be published in the Federal Register.

3 “(3) RULEMAKING.—Not later than 60 days
4 after the date on which the summary described in
5 paragraph (2) is published in the Federal Register,
6 the Secretary shall, through a rulemaking under sec-
7 tion 553 of title 5, United States Code, modify exist-
8 ing regulations, guidance, rules, and policy state-
9 ments, as necessary to carry out this section.

10 “(f) JUDICIAL REVIEW.—

11 “(1) IN GENERAL.—An applicant or contiguous
12 jurisdiction may seek review of a final decision.

13 “(2) ADMINISTRATIVE REVIEW.—An applicant
14 or contiguous jurisdiction may seek review in a
15 United States district court only after exhausting all
16 available administrative remedies.”.

17 **SEC. 4. EFFECT.**

18 (a) OTHER LAND DETERMINATIONS.—Nothing in
19 this Act (or an amendment made by this Act) impacts any
20 other Federal Indian land determination.

21 (b) EFFECT ON OTHER LAWS.—Nothing in this Act
22 (or the amendments made by this Act) affects—

23 (1) the application or effect of any Federal law
24 other than the Act of June 18, 1934 (25 U.S.C. 461
25 et seq.); or

1 ~~(2) any limitation on the authority of the Sec-~~
 2 ~~retary of the Interior under any Federal law or reg-~~
 3 ~~ulation other than the Act of June 18, 1934 (25~~
 4 ~~U.S.C. 461 et seq.).~~

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Interior Improvement*
 7 *Act”.*

8 **SEC. 2. DEFINITIONS.**

9 (a) *IN GENERAL.*—*The first sentence of section 19 of*
 10 *the Act of June 18, 1934 (commonly known as the “Indian*
 11 *Reorganization Act”)* (25 U.S.C. 479), *is amended—*

12 (1) *by striking “The term” and inserting “Effec-*
 13 *tive beginning on June 18, 1934, the term”; and*

14 (2) *by striking “any recognized Indian tribe now*
 15 *under Federal jurisdiction” and inserting “any feder-*
 16 *ally recognized Indian tribe”.*

17 (b) *RETROACTIVE PROTECTION.*—*To the extent a trust*
 18 *acquisition by the Secretary of the Interior pursuant to the*
 19 *Act of June 18, 1934 (commonly known as the “Indian Re-*
 20 *organization Act”)* (25 U.S.C. 461 et seq.), *is subjected to*
 21 *a challenge based on whether an Indian tribe was federally*
 22 *recognized or under Federal jurisdiction on June 18, 1934,*
 23 *that acquisition is ratified and confirmed.*

1 **SEC. 3. IMPROVING LAND ACQUISITIONS.**

2 *The Act of June 18, 1934 (commonly known as the*
 3 *“Indian Reorganization Act”)*, is amended by inserting
 4 *after section 5 (25 U.S.C. 465) the following:*

5 **“SEC. 5A. LAND ACQUISITION APPLICATIONS.**

6 “(a) *DEFINITIONS.—In this section:*

7 “(1) *APPLICANT.—The term ‘applicant’ means*
 8 *an Indian tribe or individual Indian who—*

9 “(A) *submits an application under sub-*
 10 *section (b)(1)(A); or*

11 “(B) *is deemed an applicant under sub-*
 12 *section (b)(1)(B).*

13 “(2) *APPLICATION.—The term ‘application’*
 14 *means an application submitted to the Department*
 15 *by an applicant under subsection (b).*

16 “(3) *CONTIGUOUS.—The term ‘contiguous’—*

17 “(A) *means 2 parcels of land having a com-*
 18 *mon boundary, notwithstanding the existence of*
 19 *non-navigable waters or a public road or right-*
 20 *of-way; and*

21 “(B) *includes parcels that touch at a point.*

22 “(4) *CONTIGUOUS JURISDICTION.—The term*
 23 *‘contiguous jurisdiction’ means any county, county*
 24 *equivalent, or Indian tribe, or the Federal Govern-*
 25 *ment, with governmental jurisdiction over the land*

1 *contiguous to the land under consideration in an ap-*
 2 *plication.*

3 “(5) *COOPERATIVE AGREEMENT.*—

4 “(A) *IN GENERAL.*—*The term ‘cooperative*
 5 *agreement’ means any enforceable contract by*
 6 *which the parties bind themselves to work jointly*
 7 *and productively toward some mutually bene-*
 8 *ficial end.*

9 “(B) *INCLUSION.*—*The term ‘cooperative*
 10 *agreement’ includes a memorandum of under-*
 11 *standing, an intergovernmental agreement, or*
 12 *any other enforceable contract.*

13 “(6) *COUNTY AND COUNTY EQUIVALENT .*—*The*
 14 *terms ‘county’ and ‘county equivalent’ mean the larg-*
 15 *est territorial division for local government within a*
 16 *State with the authority to enter into enforceable co-*
 17 *operative agreements with Indian tribes or individual*
 18 *Indians.*

19 “(7) *DEPARTMENT.*—*The term ‘Department’*
 20 *means the Department of the Interior.*

21 “(8) *DETERMINATION OF MITIGATION.*—*The term*
 22 *‘determination of mitigation’ means a written Secre-*
 23 *tarial determination that—*

1 “(A) describes whether anticipated impacts
2 on contiguous jurisdictions have been mitigated
3 to the maximum extent practicable; and

4 “(B) explains the basis of that determina-
5 tion.

6 “(9) *EXPLANATION OF FINAL DECISION.*—The
7 term ‘explanation of final decision’ means a written
8 explanation—

9 “(A) of the basis of a final decision to ap-
10 prove or deny an application; and

11 “(B) that explicitly addresses all require-
12 ments and considerations described in subsection
13 (e)(1).

14 “(10) *FINAL DECISION.*—The term ‘final deci-
15 sion’ means a decision that is final for the Depart-
16 ment, as determined or defined by the Secretary.

17 “(11) *IMPACTS.*—The term ‘impacts’ means the
18 anticipated costs and benefits to the applicant, contig-
19 uous jurisdictions, and any other Indian tribe with
20 governmental functions, infrastructure, or services
21 that would be directly, immediately, and significantly
22 impacted by the proposed acquisition.

23 “(12) *INDIAN TRIBE .*—The term ‘Indian tribe’
24 means an Indian tribe included in the list published
25 by the Secretary in the Federal Register pursuant to

1 *section 104 of the Federally Recognized Indian Tribe*
 2 *List Act of 1994 (25 U.S.C. 479a–1).*

3 “(13) *MITIGATE.*—*The term ‘mitigate’ means to*
 4 *avoid, minimize, rectify, reduce, or compensate for*
 5 *adverse impacts to the applicant, contiguous jurisdic-*
 6 *tions, and any other Indian tribe with governmental*
 7 *functions, infrastructure, or services that would be di-*
 8 *rectly, immediately, and significantly impacted by*
 9 *the proposed acquisition.*

10 “(14) *NOTICE OF FINAL DECISION.*—*The term*
 11 *‘notice of final decision’ means a notice of a final de-*
 12 *cision to accept or deny an application to take land*
 13 *into trust that—*

14 “(A) *is made available to the public; and*

15 “(B) *contains—*

16 “(i) *a legal description of the land;*

17 *and*

18 “(ii) *instructions on how to obtain a*

19 *copy of the final decision.*

20 “(15) *SECRETARY.*—*The term ‘Secretary’ means*
 21 *the Secretary of the Interior.*

22 “(b) *DISCRETIONARY OFF-RESERVATION ACQUI-*
 23 *SITIONS.*—

24 “(1) *SUBMISSION.*—

1 “(A) *IN GENERAL.*—An Indian tribe or in-
2 dividual Indian seeking to have off-reservation
3 fee or restricted land taken into trust for the ben-
4 efit of that Indian tribe or individual Indian
5 shall submit an application to the Secretary at
6 such time, in such manner, and containing such
7 information as this section and the Secretary re-
8 quire.

9 “(B) *PENDING APPLICATIONS.*—On the re-
10 quest of an Indian tribe or individual Indian
11 whose application to take land into trust is
12 pending as of the first date on which an applica-
13 tion may be filed under the application process
14 established by this section, the Secretary shall
15 deem the Indian tribe or individual Indian an
16 ‘applicant’ under this section, subject to the con-
17 dition that the Indian tribe or individual Indian
18 supplements the pending application as nec-
19 essary to comply with this subsection.

20 “(2) *APPLICATION REQUIREMENTS.*—The Sec-
21 retary may approve complete applications described
22 in paragraph (1), subject to the condition that the ap-
23 plication includes—

1 “(A) a written request for approval of a
2 trust acquisition by the United States for the
3 benefit of the applicant;

4 “(B) the legal name of the applicant, in-
5 cluding, in the case of an applicant that is an
6 Indian tribe, the tribal name of the applicant as
7 the name appears in the list of recognized In-
8 dian tribes published by the Secretary in the
9 Federal Register pursuant to section 104 of the
10 Federally Recognized Indian Tribe List Act of
11 1994 (25 U.S.C. 479a-1);

12 “(C) a legal description of the land to be ac-
13 quired;

14 “(D) a description of the need for the pro-
15 posed acquisition of the property;

16 “(E) a description of the purpose for which
17 the property is to be used;

18 “(F) a legal instrument to verify current
19 ownership, such as a deed;

20 “(G) statutory authority for the proposed
21 acquisition of the property;

22 “(H) a business plan for management of the
23 land to be acquired, if the application is for
24 business purposes; and

1 “(I) *the location of the land to be acquired*
 2 *relative to State and reservation boundaries.*

3 “(c) *STATUTORY NOTICE AND COMMENT REQUIRE-*
 4 *MENTS.—*

5 “(1) *INITIAL APPLICATIONS.—*

6 “(A) *NOTICE.—*

7 “(i) *IN GENERAL.—Not later than 30*
 8 *days after the date on which the Secretary*
 9 *receives an initial application, the Sec-*
 10 *retary shall make that application, whether*
 11 *complete or incomplete, available to the*
 12 *public on the website of the Department,*
 13 *subject to applicable Federal privacy laws.*

14 “(ii) *ADDITIONAL NOTICE BY CER-*
 15 *TIFIED MAIL.—Not later than 30 days after*
 16 *the date on which the Secretary receives an*
 17 *initial application, the Secretary shall pro-*
 18 *vide by certified mail notice of the applica-*
 19 *tion to contiguous jurisdictions.*

20 “(B) *COMMENTS.—*

21 “(i) *IN GENERAL.—Each contiguous*
 22 *jurisdiction notified under subparagraph*
 23 *(A)(ii) shall have not fewer than 60 days,*
 24 *beginning on the date that the contiguous*

1 *jurisdiction receives the notice, to comment*
 2 *on that initial application.*

3 “(ii) *RESPONSE TO COMMENTS.—An*
 4 *applicant shall have not fewer than 60*
 5 *days, beginning on the date on which a con-*
 6 *tiguous jurisdiction submits a comment*
 7 *under clause (i), to respond to comments*
 8 *submitted on an initial application.*

9 “(2) *APPLICATION UPDATES, MODIFICATIONS,*
 10 *AND WITHDRAWALS.—*

11 “(A) *IN GENERAL.—If at any time an ap-*
 12 *plication is updated, modified, or withdrawn,*
 13 *not later than 10 days after the date on which*
 14 *the Secretary receives notice of that update,*
 15 *modification, or withdrawal, the Secretary shall*
 16 *make that information available to the public on*
 17 *the website of the Department, subject to any ap-*
 18 *plicable Federal privacy laws.*

19 “(B) *INCLUSION.—If an application has*
 20 *been updated or modified in any way, the notice*
 21 *described in subparagraph (A) shall include a*
 22 *description of the changes made and the updated*
 23 *or modified application, whether complete or in-*
 24 *complete, available on the website of the Depart-*

ment, subject to any applicable Federal privacy laws.

“(3) COMPLETED APPLICATIONS.—

“(A) NOTICE.—

“(i) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives a completed application, the Secretary shall make that application available to the public on the website of the Department, subject to any applicable Federal privacy laws.

“(ii) ADDITIONAL NOTICE BY CERTIFIED MAIL.—Not later than 30 days after the date on which the Secretary receives a completed application, the Secretary shall provide by certified mail notice of the application to contiguous jurisdictions.

“(iii) PUBLICATION IN FEDERAL REGISTER.—Not later than 10 days after the date on which the Secretary receives a completed application, the Secretary shall publish in the Federal Register notice of the completed application.

“(B) COMMENTS.—

1 “(i) *IN GENERAL.*—*Each contiguous*
 2 *jurisdiction shall have not fewer than 60*
 3 *days, beginning on the date on which the*
 4 *contiguous jurisdiction receives notice under*
 5 *subparagraph (A)(ii), to comment on that*
 6 *completed application.*

7 “(ii) *RESPONSE TO COMMENTS.*—*An*
 8 *applicant shall have not fewer than 60*
 9 *days, beginning on the date on which a con-*
 10 *tiguous jurisdiction submits a comment*
 11 *under clause (i), to respond to comments*
 12 *submitted on a completed application.*

13 “(d) *ENCOURAGING LOCAL COOPERATION.*—

14 “(1) *IN GENERAL.*—*The Secretary shall encour-*
 15 *age, but not require, applicants to enter into coopera-*
 16 *tive agreements with contiguous jurisdictions.*

17 “(2) *COOPERATIVE AGREEMENTS.*—

18 “(A) *IN GENERAL.*—*The Secretary shall*
 19 *evaluate applications accompanied by 1 or more*
 20 *cooperative agreements with contiguous jurisdic-*
 21 *tions in accordance with the expedited process*
 22 *described in subparagraph (C)(i).*

23 “(B) *TERMS OF AGREEMENT.*—*A coopera-*
 24 *tive agreement described in paragraph (1) may*
 25 *include terms relating to mitigation, changes in*

land use, dispute resolution, fees, and other terms
determined by the parties to be appropriate.

“(C) COOPERATIVE AGREEMENT SUB-
MITTED.—

“(i) EXPEDITED PROCESS.—If an ap-
plicant submits to the Secretary 1 or more
cooperative agreements executed between the
applicant and contiguous jurisdictions, the
Secretary shall issue a final decision to ap-
prove or deny a complete application not
later than 120 days after the date on
which—

“(I) clear title to the land under
consideration is verified; and

“(II) all applicable requirements
under Federal law and regulation are
satisfied.

“(ii) DEEMED APPROVED.—If the Sec-
retary fails to issue a final decision by the
dates described in clause (i), the application
shall be deemed approved and treated as a
final decision of the Department, subject to
the condition that all requirements de-
scribed in clause (i) are satisfied.

1 “(D) COOPERATIVE AGREEMENT NOT SUB-
2 MITTED.—

3 “(i) DETERMINATION OF MITIGA-
4 TION.—If an applicant does not submit to
5 the Secretary 1 or more cooperative agree-
6 ments executed between the applicant and
7 the contiguous jurisdictions, the Secretary
8 shall issue a written determination of miti-
9 gation by the date that is not later than 180
10 days after a complete application is re-
11 ceived by the Secretary.

12 “(ii) CONSIDERATIONS FOR DETER-
13 MINATION.—In making a determination of
14 mitigation described in clause (i), the Sec-
15 retary shall consider—

16 “(I) the anticipated impacts on
17 contiguous jurisdictions and the appli-
18 cant of approving or not approving an
19 application;

20 “(II) any relevant comments and
21 responses to comments received by the
22 Secretary under this section; and

23 “(III) whether the absence of a co-
24 operative agreement is attributable to
25 the failure of any contiguous jurisdic-

1 *tion to work in good faith to reach an*
 2 *agreement with the applicant.*

3 “(iii) *GOOD FAITH PROTECTION.*—
 4 *Failure to submit a cooperative agreement*
 5 *shall not prejudice an application if the*
 6 *Secretary determines that the failure to sub-*
 7 *mit is attributable to the failure of any con-*
 8 *tiguous jurisdiction to work in good faith,*
 9 *honestly and without fraud or unfair deal-*
 10 *ing, to reach an agreement.*

11 “(iv) *GUARANTEED REGULAR PROC-*
 12 *ESSING.*—*In making a determination of*
 13 *mitigation, the Secretary shall not unduly*
 14 *delay the regular processing of an applica-*
 15 *tion.*

16 “(v) *NOTICE OF DETERMINATION.*—*The*
 17 *Secretary shall provide by certified mail a*
 18 *copy of the determination of mitigation de-*
 19 *scribed under this subsection to the appli-*
 20 *cant and contiguous jurisdictions not fewer*
 21 *than 10 days after a determination of miti-*
 22 *gation is issued.*

23 “(3) *RECIPROCAL NOTICE AND COMMENT.*—*The*
 24 *Secretary shall also encourage contiguous jurisdic-*
 25 *tions to engage in local cooperation through recip-*

1 *rocal notice and comment procedures, particularly*
 2 *with regard to changes in land use.*

3 “(e) *FINAL DECISION ON APPLICATION.*—

4 “(1) *FINAL DECISION.*—*The Secretary shall issue*
 5 *a final decision to approve or deny a completed ap-*
 6 *plication after—*

7 “(A) *clear title to the land under consider-*
 8 *ation is verified;*

9 “(B) *all applicable requirements under Fed-*
 10 *eral law and regulation are satisfied; and*

11 “(C) *consideration of—*

12 “(i) *all application materials and in-*
 13 *formation submitted by the applicant under*
 14 *this section;*

15 “(ii) *all comments and responses to*
 16 *comments submitted to the Secretary under*
 17 *this section;*

18 “(iii) *a determination of mitigation*
 19 *issued under subsection (d), if any;*

20 “(iv) *relevant and material cooperative*
 21 *agreements between the applicant and con-*
 22 *tiguous jurisdictions, if any;*

23 “(v) *relevant and material cooperative*
 24 *agreements between the applicant and non-*
 25 *contiguous jurisdictions, if any; and*

1 “(vi) any other information the Sec-
2 retary identifies as relevant and material to
3 the final decision to approve or deny an ap-
4 plication.

5 “(2) TRANSPARENCY.—

6 “(A) NOTICE AND EXPLANATION OF FINAL
7 DECISION.—Not later than 10 days after a final
8 decision to approve or deny an application is
9 issued, the Secretary shall—

10 “(i) publish a notice of final decision
11 and explanation of final decision on the
12 website of the Department and in the Fed-
13 eral Register; and

14 “(ii) provide by certified mail a copy
15 of the notice of final decision and expla-
16 nation of final decision.

17 “(B) ADDITIONAL NOTICE.—In addition to
18 the notice required by subparagraph (A), the
19 Secretary shall publish a notice of final decision
20 in a newspaper of general circulation serving the
21 affected area of the decision.

22 “(C) INCLUSION.—The requirements de-
23 scribed in subparagraphs (A) and (B) apply to
24 an application deemed approved under sub-
25 section (d)(2)(C)(ii).

1 “(f) *SAFEGUARDING PROPRIETARY INFORMATION.*—
 2 *Nothing in this Act requires the publication or release of*
 3 *proprietary information submitted by an applicant under*
 4 *this section.*

5 “(g) *IMPLEMENTATION.*—

6 “(1) *CONSULTATION.*—*Not later than 90 days*
 7 *after the date of enactment of this section, the Sec-*
 8 *retary shall initiate consultation with Indian tribes*
 9 *regarding the implementation of this section.*

10 “(2) *SUMMARY.*—*Not later than 180 days after*
 11 *the date on which the consultation described in para-*
 12 *graph (1) is initiated, the Secretary shall issue a*
 13 *summary of the consultation and the summary shall*
 14 *be published in the Federal Register.*

15 “(3) *RULEMAKING.*—*Not later than 90 days*
 16 *after the date on which the summary described in*
 17 *paragraph (2) is published in the Federal Register,*
 18 *the Secretary shall, through a rulemaking under sec-*
 19 *tion 553 of title 5, United States Code, modify exist-*
 20 *ing regulations, guidance, rules, and policy state-*
 21 *ments, as necessary to carry out this section.*

22 “(h) *JUDICIAL REVIEW.*—*Interested parties may seek*
 23 *review of a final decision in a United States district court*
 24 *after exhausting all administrative remedies available*
 25 *under subchapter II of chapter 5, and chapter 7, of title*

1 5, *United States Code* (commonly known as the ‘*Adminis-*
 2 *trative Procedure Act*’).”.

3 **SEC. 4. EFFECT.**

4 (a) *OTHER LAND DETERMINATIONS*.—*Nothing in this*
 5 *Act (or an amendment made by this Act) impacts any other*
 6 *Federal Indian land determination.*

7 (b) *EFFECT ON OTHER LAWS*.—*Nothing in this Act*
 8 *(or the amendments made by this Act) affects—*

9 (1) *the application or effect of any Federal law*
 10 *other than the Act of June 18, 1934 (25 U.S.C. 461*
 11 *et seq.); or*

12 (2) *any limitation on the authority of the Sec-*
 13 *retary of the Interior under any Federal law or regu-*
 14 *lation other than the Act of June 18, 1934 (25 U.S.C.*
 15 *461 et seq.).*

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A BILL

To improve processes in the Department of the
Interior, and for other purposes.

JUNE 9, 2016

Reported with an amendment