

111TH CONGRESS
1ST SESSION

H. R. 2576

To restore Federal recognition to the Chinook Nation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. BAIRD introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restore Federal recognition to the Chinook Nation, 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 “Chinook Nation Restoration Act”.

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

7 (1) The Chinook Nation made a significant con-
8 tribution to the historic journey of Meriwether Lewis
9 and William Clark to the Pacific Ocean by greeting

1 the expedition and their company as well as trading
2 with them throughout the winter of 1805–1806.

3 (2) The United States subsequently recognized
4 the Chinook Nation as an Indian tribe in the Anson
5 Dart (Tansy Point) Treaty of 1851, and the Isaac
6 Stevens (Chehalis River) Treaty of 1855, but neither
7 treaty was ratified, resulting in serious harm to the
8 Chinook people.

9 (3) As a result of the failure of the United
10 States to protect the Chinook Nation and people, the
11 Chinooks lost their historic lands on the Columbia
12 River, and a great number of them succumbed to
13 poverty and disease in the 19th century.

14 (4) It was the intent of Congress in the Act of
15 March 4, 1911 (36 Stat. 1345), to provide restitu-
16 tion to the Chinook people in the form of allotments
17 of land on existing Indian reservations, which the
18 Supreme Court of the United States upheld in
19 *Halbert v. United States* (283 U.S. 753 (1931)).

20 (5) Congress named four of the five tribes of
21 the Chinook Nation, the Lower Chinook,
22 Wahkiakum, Cathlamet, and Clatsop, in the Western
23 Oregon Termination Act of 1954, and this Act is the
24 only basis for termination of the Federal relationship
25 with the Tribe.

1 (6) The Chinook Nation has remained active on
2 the Lower Columbia River and Willapa Bay in the
3 vicinity of the reservation area of the Tansy Point
4 Treaty and is well-known to neighboring tribes and
5 other communities.

6 (7) The Chinook people have survived and
7 maintained their language, Chinookwawa, and cul-
8 ture despite decades of neglect by the United States.

9 (8) With different Administrations disagreeing
10 about the legal status of the Chinook Nation, it is
11 time for Congress to restore the Chinook Nation to
12 Federal tribal status.

13 **SEC. 2. DEFINITIONS.**

14 For the purposes of this Act, the following definitions
15 apply:

16 (1) MEMBER.—The term “member” means an
17 enrolled member of the Chinook Nation as of the
18 date of enactment of this Act, or an individual who
19 has been placed on the membership role in accord-
20 ance with this Act.

21 (2) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior.

23 (3) TRIBE.—The term “Tribe” means the Chi-
24 nook Indian Nation, composed of the Lower Chi-

1 nook, Wahkiakum, Cathlamet, Clatsop, and Willapa
2 Tribes.

3 (4) STATE.—The term “State” means the State
4 of Washington.

5 (5) STATE TERRITORIAL WATERS.—The term
6 “State territorial waters” means all waters within
7 the territorial limits of the State of Washington.

8 **SEC. 3. FEDERAL RECOGNITION.**

9 Federal recognition is hereby extended to the Chi-
10 nook Indian Nation. Except as otherwise provided in this
11 Act, all laws and regulations of the United States of gen-
12 eral application to Indians, and nations, tribes, or bands
13 of Indians, including the Act of June 18, 1934 (25 U.S.C.
14 461 et seq.), that are not inconsistent with any specific
15 provision of this Act shall be applicable to the Tribe and
16 its members.

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

18 (a) IN GENERAL.—The Tribe and its members shall
19 be eligible, on and after the date of the enactment of this
20 Act, for all services and benefits provided by the Federal
21 Government to federally recognized tribes without regard
22 to the existence of a reservation for the Tribe or the loca-
23 tion of the residence of any member on or near any Indian
24 reservation.

1 (b) SERVICE AREA.—For purposes of the delivery of
2 Federal services to enrolled members of the Tribe, the
3 Tribe’s service area shall consist of Pacific, Wahkiakum,
4 Cowlitz, and Clark Counties, Washington, and Clatsop
5 and Columbia Counties, Oregon.

6 (c) CIVIL JURISDICTION.—Upon approval of the con-
7 stitution and bylaws pursuant to section 6 of this Act, the
8 Nation shall exercise jurisdiction over all its members who
9 reside within the service area located in the State in mat-
10 ters pursuant to the Indian Child Welfare Act of 1978
11 (25 U.S.C. 1901 et seq.) as if the members were residing
12 upon a reservation as defined in that Act.

13 **SEC. 5. MEMBERSHIP.**

14 Not later than 9 months after the date of the enact-
15 ment of this Act, the Tribe shall submit to the Secretary
16 a membership roll consisting of all individuals enrolled in
17 the Tribe.

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

19 (a) CONSTITUTION.—

20 (1) ADOPTION.—Not later than 1 year after the
21 date of the enactment of this Act, the Tribe shall
22 conduct, by secret ballot, an election to adopt a con-
23 stitution and bylaws for the Tribe.

24 (2) INTERIM GOVERNING DOCUMENTS.—Until
25 such time as a new constitution is adopted under

1 this section, the governing documents in effect on
2 the date of the enactment of the Act shall be the in-
3 terim governing documents for the Tribe most re-
4 cently submitted to the Department of the Interior.

5 (b) OFFICIALS.—Not later than 6 months after the
6 Tribe adopts a constitution and bylaws pursuant to this
7 section, the Tribe shall elect a governing body in accord-
8 ance with the procedures set forth in its constitution and
9 bylaws. Until such time as a new governing body is elect-
10 ed, the governing body of the Tribe shall be the governing
11 body selected under the election procedures specified in
12 the interim governing documents of the Tribe.

13 **SEC. 7. LAND IN TRUST.**

14 (a) REQUIREMENT TO TAKE LAND IN TRUST.—If
15 the Tribe transfers all right, title, and interest in and to
16 any land to the Secretary, the Secretary shall take such
17 land in trust for the benefit of the Tribe, subject to sub-
18 section (c). This subsection does not limit the authority
19 of the Secretary to take land in trust under the Indian
20 Reorganization Act.

21 (b) PLAN FOR ESTABLISHMENT OF RESERVATION.—

22 (1) IN GENERAL.—The Secretary shall—

23 (A) negotiate with the tribal governing
24 body with respect to establishing a reservation
25 for the Tribe; and

1 (B) not later than two years after the date
2 of enactment of this Act, develop a plan for es-
3 tablishment of a reservation.

4 (2) CONSULTATION WITH STATE AND LOCAL
5 OFFICIALS REQUIRED.—To assure that legitimate
6 State and local interests are not prejudiced by the
7 proposed establishment of the reservation, the Sec-
8 retary shall notify and consult with all appropriate
9 officials of the State and all owners of land adjacent
10 to lands considered for the proposed reservation in
11 developing any plan under this subsection. The Sec-
12 retary shall provide complete information on the pro-
13 posed plan to such officials, including the restric-
14 tions imposed by subsection (c). During any con-
15 sultation by the Secretary under this subsection, the
16 Secretary shall provide such information as the Sec-
17 retary possesses and request comments and addi-
18 tional information on the following subjects:

19 (A) The size and location of the proposed
20 reservation.

21 (B) The anticipated effect of the establish-
22 ment of the proposed reservation on State and
23 local expenditures and tax revenues.

1 (C) The extent of any State or local service
2 to the Tribe, the reservation, or members after
3 the establishment of the proposed reservation.

4 (D) The extent of Federal services to be
5 provided in the future to the Tribe, the reserva-
6 tion, or members.

7 (E) The extent of service to be provided in
8 the future by the Tribe to members resident on
9 or off the reservation.

10 (3) RESTRICTIONS ON PLAN.—A plan developed
11 pursuant to this subsection shall be in accordance
12 with subsection (c).

13 (4) SUBMISSION OF PLAN.—

14 (A) SUBMISSION TO CONGRESS.—Upon the
15 approval by the tribal governing body of the
16 plan developed pursuant to this subsection (and
17 after consultation with interested parties pursu-
18 ant to paragraph (2)), the Secretary shall sub-
19 mit the plan to the Clerk of the House of Rep-
20 resentatives and the Secretary of the Senate for
21 distribution to the committees of the respective
22 Houses of Congress with jurisdiction over the
23 subject matter.

1 (B) APPENDIX TO PLAN.—The Secretary
2 shall append to the plan submitted to Congress
3 under this subsection a detailed statement—

4 (i) describing the manner in which the
5 Secretary notified all interested parties in
6 accordance with this subsection;

7 (ii) naming each individual and offi-
8 cial consulted in accordance with this sub-
9 section;

10 (iii) summarizing the testimony re-
11 ceived by the Secretary pursuant to any
12 such consultation; and

13 (iv) including any written comments
14 or reports submitted to the Secretary by
15 any party named pursuant to clause (ii).

16 (c) RESTRICTIONS ON LAND TAKEN IN TRUST.—

17 (1) Any real property transferred by the Tribe
18 or any member to the Secretary shall be taken and
19 held in the name of the United States for the benefit
20 of the Tribe.

21 (2) The Secretary shall not accept any real
22 property in trust for the benefit of the Tribe that is
23 not located within the political boundaries of Pacific,
24 Wahkiakum, or Cowlitz County, Washington.

1 (3) Any real property taken in trust by the Sec-
2 retary for the benefit of the Tribe shall be—

3 (A) subject to—

4 (i) all legal rights and interests in
5 such land existing at the time of acquisi-
6 tion of such land by the Secretary, includ-
7 ing any lien, mortgage, or previously levied
8 and outstanding State or local tax; and

9 (ii) foreclosure or sale in accordance
10 with the laws of the State pursuant to the
11 terms of any valid obligations in existence
12 at the time of the acquisition of such land
13 by the Secretary; and

14 (B) exempt from Federal, State, and local
15 taxation of any kind.

16 (4) Any privately owned lands acquired by the
17 Tribe or its members to be taken in trust by the
18 Secretary for the benefit of the Tribe shall be ac-
19 quired on a willing-seller, willing-buyer basis.

20 (5) No eminent domain authority may be exer-
21 cised for the purposes of acquiring lands for the ben-
22 efit of the Tribe.

1 **SEC. 8. FISHING, HUNTING, AND TRAPPING RIGHTS NOT**
2 **RESTORED.**

3 (a) IN GENERAL.—No nonceremonial fishing, hunt-
4 ing, or trapping rights of any nature of the Tribe or of
5 any member of the Tribe, including any indirect or proce-
6 dural right or advantage over individuals who are not
7 members, are granted or restored under this Act. Ceremo-
8 nial hunting and fishing rights (not to include whaling)
9 shall be allowed in the area in which the Tribe has histori-
10 cally hunted or fished, in Pacific and Wahkiakum Coun-
11 ties, Washington.

12 (b) CEREMONIAL HUNTING AND FISHING.—

13 (1) DEFINED.—Ceremonial hunting and fishing
14 includes traditional occasions on which the tribe has
15 traditionally fished, including—

16 (A) the First Salmon ceremony, which
17 takes place annually on the third Friday of
18 June;

19 (B) the Winter Gathering, which takes
20 place annually on the third Saturday of Janu-
21 ary; and

22 (C) the funerals of certain tribal members,
23 to be determined in the tribe's constitution.

24 (2) TIME PERIOD.—Ceremonial hunting and
25 fishing may take place for up to 3 calendar days

1 during the week preceding the ceremonies referred
2 to in paragraph (1).

3 (c) PERMITS.—The director of the Washington De-
4 partment of Fish and Wildlife—

5 (1) may issue permits to members of the Chi-
6 nook Nation to take fish for ceremonial purposes;

7 (2) shall establish the areas in which the per-
8 mits are valid; and

9 (3) shall regulate the times for and manner of
10 taking the fish, and the allocations from which they
11 will be taken.

12 (d) RULES AND REGULATIONS.—To assure that cere-
13 monial fishing is consistent with the Tribe's historic cus-
14 toms and traditions, any member of the Tribe who wishes
15 to take part in ceremonial fishing, must do so pursuant
16 to—

17 (1) any rules or regulations put forth by the
18 Washington Department of Fish and Wildlife with
19 respect to Indian ceremonial fishing; and

20 (2) any rules or regulations put forth by the
21 Washington Department of Fish and Wildlife, or by
22 the Washington Administrative Code, with regard to
23 the commercial and recreational allocations.

24 (e) ALLOCATION.—Fish taken for ceremonial pur-
25 poses will be drawn from the commercial and recreational

1 allocations as designated by the Washington Department
2 of Fish and Wildlife.

3 (f) NO COMMERCIAL RIGHTS.—Nothing in this sec-
4 tion shall be construed to create a right to fish commer-
5 cially.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to carry out
8 this Act, \$2,000,000 for fiscal year 2010, \$3,000,000 for
9 fiscal year 2011, and \$4,000,000 for fiscal year 2012.

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