

118TH CONGRESS
1ST SESSION

S. 195

AN ACT

To provide compensation to the Keweenaw Bay Indian Community for the taking without just compensation of land by the United States inside the exterior boundaries of the L'Anse Indian Reservation that were guaranteed to the Community under a treaty signed in 1854, 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 “Keweenaw Bay Indian
5 Community Land Claim Settlement Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Keweenaw Bay Indian Community is a
9 federally recognized Indian Tribe residing on the
10 L’Anse Indian Reservation in Baraga County in the
11 Upper Peninsula of the State of Michigan;

12 (2) the Community is a successor in interest to
13 the Treaty with the Chippewa Indians of the Mis-
14 sissippi and Lake Superior, made and concluded at
15 La Pointe of Lake Superior October 4, 1842 (7
16 Stat. 591) (referred to in this section as the “1842
17 Treaty”), which, among other things, guaranteed the
18 usufructuary rights of the Community over a large
19 area of land that was ceded to the United States,
20 until such time that those usufructuary rights were
21 properly and legally extinguished;

22 (3) the Community is also a successor in inter-
23 est to the Treaty with the Chippewa Indians of Lake
24 Superior and the Mississippi, made and concluded at

1 La Pointe September 30, 1854 (10 Stat. 1109) (re-
2 ferred to in this section as the “1854 Treaty”);

3 (4) article 2, paragraph 1 of the 1854 Treaty
4 created the L’Anse Indian Reservation as a perma-
5 nent reservation;

6 (5) pursuant to article 13 of the 1854 Treaty,
7 the 1854 Treaty became “obligatory on the con-
8 tracting parties” when ratified by the President and
9 the Senate on January 10, 1855;

10 (6) in 1850, Congress enacted the Act of Sep-
11 tember 28, 1850 (commonly known and referred to
12 in this section as the “Swamp Land Act”) (9 Stat.
13 519, chapter 84), which authorized the State of Ar-
14 kansas and other States, including the State of
15 Michigan, to “construct the necessary levees and
16 drains to reclaim” certain unsold “swamp and over-
17 flowed lands, made unfit thereby for cultivation”
18 and stating that those lands “shall remain unsold at
19 the passage of this act”;

20 (7) following enactment of the Swamp Land
21 Act, the State claimed thousands of acres of swamp
22 land in the State pursuant to that Act;

23 (8) between 1893 and 1937, the General Land
24 Office patented 2,743 acres of land to the State that
25 were located within the exterior boundaries of the

1 Reservation (referred to in this section as “Reserva-
2 tion Swamp Lands”);

3 (9) the right of the Community to use and oc-
4 cupy the unsold land within the Reservation had not
5 been extinguished when the United States patented
6 the Reservation Swamp Lands to the State;

7 (10) in 1852, Congress enacted the Act of Au-
8 gust 26, 1852 (10 Stat. 35, chapter 92) (referred to
9 in this section as the “Canal Land Act”), to facili-
10 tate the building of the Sault Ste. Marie Canal at
11 the Falls of the St. Mary’s River, to connect Lake
12 Superior to Lake Huron;

13 (11) pursuant to the Canal Land Act, the
14 United States granted the State the right to select
15 750,000 acres of unsold public land within the State
16 to defray the cost of construction of the Sault Ste.
17 Marie Canal;

18 (12) the State identified and selected, among
19 other land, a minimum of 1,333.25 and up to 2,720
20 acres within the exterior boundaries of the Reserva-
21 tion (referred to in this section as the “Reservation
22 Canal Lands”);

23 (13) the Department of the Interior approved
24 the land selections of the State, including the Res-

1 ervation Canal Lands, after ratification of the 1854
2 Treaty;

3 (14) the Secretary noted that the approval de-
4 scribed in paragraph (13) was “subject to any valid
5 interfering rights”;

6 (15) the 1854 Treaty set apart from the public
7 domain all unsold land within the Reservation to the
8 Community as of September 30, 1854, which pre-
9 ceded the date on which the State established legally
10 effective title to the Reservation Canal Lands;

11 (16) the Community made claims to the De-
12 partment of the Interior with respect to the Reserva-
13 tion Swamp Lands and the Reservation Canal
14 Lands, providing legal analysis and ethnohistorical
15 support for those claims;

16 (17) in December 2021, the Department of the
17 Interior stated that “We have carefully reviewed per-
18 tinent documents, including the Tribe’s expert re-
19 ports, and have determined that the Tribe’s claims
20 to the Swamp Lands and Canal Lands have merit”;

21 (18) the United States, through the actions of
22 the General Land Office, deprived the Community of
23 the exclusive use and occupancy of the Reservation
24 Swamp Lands and the Reservation Canal Lands
25 within the Reservation, without just compensation as

1 required under the Takings Clause of the Fifth
2 Amendment to the Constitution of the United
3 States;

4 (19) the loss of the Reservation Swamp Lands
5 and the Reservation Canal Lands without just com-
6 pensation has—

7 (A) impacted the exercise by the Commu-
8 nity of cultural, religious, and subsistence
9 rights on the land;

10 (B) caused a harmful disconnect between
11 the Community and its land;

12 (C) impacted the ability of the Community
13 to fully exercise its economy within the Reserva-
14 tion; and

15 (D) had a negative economic impact on the
16 development of the economy of the Community;

17 (20) certain non-Indian individuals, entities,
18 and local governments occupy land within the
19 boundaries of the Reservation—

20 (A) acquired ownership interests in the
21 Reservation Swamp Lands and the Reservation
22 Canal Lands in good faith; and

23 (B) have an interest in possessing clear
24 title to that land;

25 (21) this Act allows the United States—

1 (A) to secure a fair and equitable settle-
2 ment of past inequities suffered by the Commu-
3 nity as a result of the actions of the United
4 States that caused the taking of the Reserva-
5 tion Swamp Lands and the Reservation Canal
6 Lands without just compensation; and

7 (B) to ensure protection of the ownership
8 of the Reservation Swamp Lands and the Res-
9 ervation Canal Lands by non-Indian occupants
10 of the Reservation, through the settlement of
11 the claims of the Community to that land, and
12 through that action, the relief of any clouds on
13 title;

14 (22) a settlement will allow the Community to
15 receive just compensation and the local landowners
16 to obtain clear title to land, without long and pro-
17 tracted litigation that would be both costly and det-
18 rimental to all involved; and

19 (23) this Act achieves both justice for the Com-
20 munity and security for current landowners through
21 a restorative and non-confrontational process.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are—

1 (1) to acknowledge the uncompensated taking
2 by the Federal Government of the Reservation
3 Swamp Lands and the Reservation Canal Lands;

4 (2) to provide compensation to the Community
5 for the uncompensated taking of the Reservation
6 Swamp Lands and the Reservation Canal Lands by
7 the Federal Government;

8 (3) to extinguish all claims by the Community
9 to the Reservation Swamp Lands and the Reserva-
10 tion Canal Lands and to confirm the ownership by
11 the current landowners of the Reservation Swamp
12 Lands and the Reservation Canal Lands, who ob-
13 tained that land in good faith;

14 (4) to extinguish all potential claims by the
15 Community against the United States, the State,
16 and current landowners concerning title to, use of,
17 or occupancy of the Reservation Swamp Lands and
18 the Reservation Canal Lands; and

19 (5) to authorize the Secretary—

20 (A) to compensate the Community; and

21 (B) to take any other action necessary to
22 carry out this Act.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1 (1) COMMUNITY.—The term “Community”
2 means the Keweenaw Bay Indian Community.

3 (2) COUNTY.—The term “County” means
4 Baraga County, Michigan.

5 (3) RESERVATION.—The term “Reservation”
6 means the L’Anse Indian Reservation, located in—

7 (A) T. 51 N., R. 33 W.;

8 (B) T. 51 N., R. 32 W.;

9 (C) T. 50 N., R. 33 W., E¹/₂;

10 (D) T. 50 N., R. 32 W., W¹/₂; and

11 (E) that portion of T. 51 N., R. 31 W.
12 lying west of Huron Bay.

13 (4) RESERVATION CANAL LANDS.—The term
14 “Reservation Canal Lands” means the 1,333.25 to
15 2,720 acres of Community land located within the
16 exterior boundaries of the Reservation that the Fed-
17 eral Government conveyed to the State pursuant to
18 the Act of August 26, 1852 (10 Stat. 35, chapter
19 92).

20 (5) RESERVATION SWAMP LANDS.—The term
21 “Reservation Swamp Lands” means the 2,743 acres
22 of land located within the exterior boundaries of the
23 Reservation that the Federal Government conveyed
24 to the State between 1893 and 1937 pursuant to the
25 Act of September 28, 1850 (commonly known as the

1 “Swamp Land Act”) (sections 2479 through 2481 of
2 the Revised Statutes (43 U.S.C. 982 through 984)).

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (7) STATE.—The term “State” means the State
6 of Michigan.

7 **SEC. 5. PAYMENTS.**

8 (a) TRANSFER OF FUNDS.—As soon as practicable
9 after the date on which the amount authorized to be ap-
10 propriated under subsection (c) is made available to the
11 Secretary, the Secretary shall transfer \$33,900,000 to the
12 Community.

13 (b) USE OF FUNDS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the Community may use the amount received under
16 subsection (a) for any lawful purpose, including—

17 (A) governmental services;

18 (B) economic development;

19 (C) natural resources protection; and

20 (D) land acquisition.

21 (2) RESTRICTION ON USE OF FUNDS.—The
22 community may not use the amount received under
23 subsection (a) to acquire land for gaming purposes.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to the Secretary to carry

1 out subsection (a) \$33,900,000 for fiscal year 2024, to
2 remain available until expended.

3 **SEC. 6. EXTINGUISHMENT OF CLAIMS.**

4 (a) IN GENERAL.—Effective on the date on which the
5 Community receives the payment under section 5(a), all
6 claims of the Community to the Reservation Swamp
7 Lands and the Reservation Canal Lands owned by persons
8 or entities other than the Community are extinguished.

9 (b) CLEAR TITLE.—Effective on the date on which
10 the Community receives the payment under section 5(a),
11 the title of all current owners to the Reservation Swamp
12 Lands and the Reservation Canal Lands is cleared of all
13 preexisting rights held by the Community and any of the
14 members of the Community.

15 **SEC. 7. EFFECT.**

16 Nothing in this Act authorizes—

17 (1) the Secretary to take land into trust for the
18 benefit of the Community for gaming purposes; or

1 (2) the Community to use land acquired using
2 amounts received under this Act for gaming pur-
3 poses.

Passed the Senate December 14, 2023.

Attest:

Secretary.

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To provide compensation to the Keweenaw Bay Indian Community for the taking without just compensation of land by the United States inside the exterior boundaries of the U'Anse Indian Reservation that were guaranteed to the Community under a treaty signed in 1854, and for other purposes.