

113TH CONGRESS
2D SESSION

S. 2256

To direct the Secretary of the Interior to take certain land and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important land into trust for the benefit of the Northern Cheyenne Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2014

Mr. WALSH (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to take certain land and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important land into trust for the benefit of the Northern Cheyenne Tribe, 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 “Northern Cheyenne
5 Lands Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Northern Cheyenne Tribe has depended
2 on the land of the Tribe and the land-based re-
3 sources of the Tribe to support its way of life since
4 time immemorial;

5 (2) the Tribe has made supreme and historic
6 sacrifices to repossess and maintain the homeland of
7 the Tribe, including the Reservation of the Tribe in
8 the State of Montana;

9 (3) the Tribe suffers from tremendous social
10 and economic challenges, including a lack of employ-
11 ment opportunities on the Reservation, which can be
12 improved by strengthening the control of the Tribe
13 over the land base, natural resources, and trust
14 funds of the Tribe;

15 (4) the Tribe and the members of the Tribe are
16 the beneficial owners of more than 95 percent of the
17 surface land of the Reservation and all but approxi-
18 mately 5,000 subsurface acres of the Reservation;

19 (5) the Tribe seeks to obtain ownership of ap-
20 proximately 5,000 subsurface acres on the Reserva-
21 tion that the Tribe does not own as a result of an
22 error made by the United States when the Reserva-
23 tion was expanded in 1900;

24 (6) in 2002, the Tribe agreed by settlement to
25 dismiss a lawsuit against the United States which

1 alleged that the United States failed to protect the
2 Reservation from the impacts of coal development in
3 return for assistance in securing tribal ownership of
4 the subsurface rights described in paragraph (5)
5 substantially in the form of this Act, and to secure
6 mitigation funding to address the impacts of coal de-
7 velopment in areas adjacent to the Reservation,
8 among other conditions;

9 (7) to increase tribal ownership of the surface
10 land, the Tribe has purchased approximately 932
11 acres of land within the Reservation that were, for
12 various reasons, taken out of trust ownership status;

13 (8) the Tribe has purchased approximately 635
14 acres of land near Bear Butte, South Dakota, which
15 the Tribe considers sacred ground for the members
16 of the Tribe, as well as for members of other Indian
17 tribes;

18 (9) the Tribe seeks to have the land and sub-
19 surface within the Reservation and the Bear Butte
20 land described in this section taken into trust by the
21 United States for the benefit of the Tribe;

22 (10) the Tribe seeks clarification, consistent
23 with the 1999 settlement with the United States,
24 that the principal of the funds arising from the
25 Northern Cheyenne Indian Reserved Water Rights

1 Settlement Act of 1992 (Public Law 102–374; 106
2 Stat. 1186; 108 Stat. 707), the earnings from which
3 are paid to the Tribe and managed as the “Northern
4 Cheyenne Trust Fund” by the Office of Special
5 Trustee, may be transferred to the Northern Chey-
6 enne Tribe Permanent Fund, which has historically
7 provided strong returns to the Tribe in direct sup-
8 port of tribal self-determination and to offset limited
9 Federal funding of important tribal governmental
10 services; and

11 (11) if the conveyances of land and funds au-
12 thorized under this Act are carried out, the Tribe
13 has agreed to waive all legal claims against the
14 United States arising out of the longstanding loss of
15 the subsurface rights and the management of the
16 Northern Cheyenne Trust Fund by the United
17 States.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) **FUND.**—The term “Fund” means the
21 Northern Cheyenne Trust Fund identified in the
22 June 7, 1999 Agreement Settling Certain Issues Re-
23 lating to the Tongue River Dam Project, which was
24 entered into by the Tribe, the State, and delegates

1 of the Secretary, and managed by the Office of Spe-
2 cial Trustee in the Department of the Interior.

3 (2) GREAT NORTHERN PROPERTIES.—The term
4 “Great Northern Properties” means the Great
5 Northern Properties Limited Partnership, which is a
6 Delaware limited partnership.

7 (3) PERMANENT FUND.—The term “Permanent
8 Fund” means the Northern Cheyenne Tribe Perma-
9 nent Fund managed by the Tribe pursuant to the
10 Plan for Investment, Management and Use of the
11 Fund, as amended by vote of the tribal membership
12 on November 2, 2010.

13 (4) RESERVATION.—The term “Reservation”
14 means the Northern Cheyenne Reservation.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (6) STATE.—The term “State” means the State
18 of Montana.

19 (7) TRIBE.—The term “Tribe” means the
20 Northern Cheyenne Tribe.

21 **SEC. 4. TRIBAL FEE LAND TO BE TAKEN INTO TRUST.**

22 Not later than 60 days after the date of enactment
23 of this Act, the Secretary shall take the approximately
24 1,567 acres of land depicted on the map entitled “North-
25 ern Cheyenne Lands Act – Fee-to-Trust Lands” and

1 dated March 26, 2014, into trust for the benefit of the
2 Tribe.

3 **SEC. 5. MINERAL RIGHTS TO BE TAKEN INTO TRUST.**

4 (a) COMPLETION OF MINERAL CONVEYANCES.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date on which the Secretary receives the notifica-
7 tion described in subsection (c), in a single trans-
8 action—

9 (A) Great Northern Properties shall convey
10 to the Tribe all right, title, and interest of
11 Great Northern Properties, consisting of coal
12 and iron ore mineral interests, underlying the
13 land on the Reservation generally depicted as
14 “Great Northern Properties” on the map enti-
15 tled “Northern Cheyenne Land Act – Coal
16 Tracts” and dated February 27, 2014; and

17 (B) subject to paragraph (2), the Secretary
18 shall convey to Great Northern Properties all
19 right, title, and interest of the United States in
20 and to the coal mineral interests underlying the
21 land generally depicted as “Bull Mountains”
22 and “East Fork” on the map entitled “North-
23 ern Cheyenne Federal Tracts” and dated Feb-
24 ruary 27, 2014.

1 (2) REQUIREMENT.—The Secretary shall en-
2 sure that the deed for the conveyance authorized by
3 paragraph (1)(B) shall include a covenant running
4 with the land that—

5 (A) precludes the coal conveyed from being
6 mined by any method other than underground
7 mining techniques—

8 (i) until any surface owner (as defined
9 in section 714(e) of Public Law 95–87 (30
10 U.S.C. 1304(e))) for a specific tract has
11 provided to Great Northern Properties
12 written consent to enter the specific tract
13 and commence surface mining; and

14 (ii) except as determined to be accept-
15 able for further consideration for leasing in
16 the document of the Bureau of Land Man-
17 agement entitled “Billings Resource Area
18 Final EIS and Resource Management
19 Plan” and dated September 1984; and

20 (B) shall not create any property interest
21 in the United States or any surface owner (as
22 defined in section 714(e) of Public Law 95–87
23 (30 U.S.C. 1304(e))).

24 (b) TREATMENT OF LAND TRANSFERRED TO
25 TRIBE.—

1 (1) IN GENERAL.—At the request of the Tribe,
2 the Secretary shall take into trust for the benefit of
3 the Tribe the mineral interests conveyed to the Tribe
4 under subsection (a)(1)(A).

5 (2) NO STATE TAXATION.—The mineral inter-
6 ests conveyed to the Tribe under subsection
7 (a)(1)(A) shall not be subject to taxation by the
8 State (including any political subdivision of the
9 State).

10 (c) REVENUE SHARING AGREEMENT.—The Tribe
11 shall notify the Secretary, in writing, that—

12 (1) consistent with a settlement agreement en-
13 tered into between the Tribe and the State in 2002,
14 the Tribe and Great Northern Properties have
15 agreed on a formula for sharing revenue from devel-
16 opment of the mineral interests described in sub-
17 section (a)(1)(B) if those mineral interests are devel-
18 oped;

19 (2) the revenue sharing agreement remains in
20 effect as of the date of enactment of this Act; and

21 (3) Great Northern Properties has offered to
22 convey the mineral interests described in subsection
23 (a)(1)(A) to the Tribe.

1 (d) WAIVER OF LEGAL CLAIMS.—As a condition of
2 the conveyances of mineral interests under subsection
3 (a)(1)—

4 (1) the Tribe shall waive any and all claims re-
5 lating to the failure of the United States to acquire
6 and take into trust on behalf of the Tribe the min-
7 eral interests described in subsection (a)(1)(A), as
8 directed by Congress in 1900; and

9 (2) Great Northern Properties shall waive any
10 and all claims against the United States relating to
11 the value of the coal mineral interests described in
12 subsection (a)(1)(B).

13 (e) RESCISSION OF MINERAL CONVEYANCES.—If any
14 portion of the mineral interests conveyed under subsection
15 (a)(1) is invalidated by final judgment of a court of the
16 United States—

17 (1) not later than 1 year after the date on
18 which the final judgment is rendered, the Secretary
19 or Great Northern Properties may agree to rescind
20 the conveyances under subsection (a)(1); and

21 (2) if the conveyances are rescinded under
22 paragraph (1), the waivers under subsection (d)
23 shall no longer apply.

1 **SEC. 6. TRANSFER OF NORTHERN CHEYENNE TRUST FUND**
2 **TO TRIBE.**

3 (a) IN GENERAL.—Not later than 30 days after the
4 date of enactment of this Act, all amounts in the Fund
5 shall be deposited in the Permanent Fund.

6 (b) USE OF AMOUNTS.—Of the amounts transferred
7 to the Permanent Fund under subsection (a)—

8 (1) the portion that is attributable to the prin-
9 cipal of the Fund shall be maintained in perpetuity;
10 and

11 (2) any interest earned on the amounts de-
12 scribed in paragraph (1) shall be used in the same
13 manner as interest earned on amounts in the Per-
14 manent Fund may be used.

15 (c) WAIVER OF LEGAL CLAIMS.—As a condition of
16 the transfer under subsection (a), the Tribe shall waive
17 any and all claims arising from the management of the
18 Fund by the United States.

19 **SEC. 7. ELIGIBILITY FOR OTHER FEDERAL BENEFITS.**

20 The transfer under section 6 shall not result in the
21 reduction or denial of any Federal service, benefit, or pro-
22 gram to the Tribe or to any member of the Tribe to which
23 the Tribe or member is entitled or eligible because of—

24 (1) the status of the Tribe as a federally recog-
25 nized Indian tribe; or

1 (2) the status of the member as a member of
2 the Tribe.

3 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to carry out
5 this Act such sums as are necessary.

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