

118TH CONGRESS
1ST SESSION

H. R. 2461

To ratify a Treaty between the San Juan Southern Paiute Tribe and the Navajo Nation, to provide for the creation of a reservation for the San Juan Southern Paiute Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2023

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

A BILL

To ratify a Treaty between the San Juan Southern Paiute Tribe and the Navajo Nation, to provide for the creation of a reservation for the San Juan Southern Paiute 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 “San Juan Southern
5 Paiute Tribal Homelands Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The San Juan Southern Paiute Tribe is a
2 federally recognized Indian Tribe that has occupied
3 its ancestral homelands in northern Arizona and
4 southern Utah since time immemorial.

5 (2) The San Juan Southern Paiute Tribe was
6 federally recognized on December 11, 1989, though
7 the United States did not create a reservation for its
8 exclusive benefit at that time.

9 (3) The Navajo Indian Reservation was origi-
10 nally established by the 1868 Navajo Treaty (15
11 Stat. 667) and expanded in Arizona and Utah by
12 various Executive orders and Acts of Congress, in-
13 cluding, but not limited to, Executive order of May
14 17, 1884; Executive order of January 8, 1900; Pub-
15 lic Law 72–403, 47 Stat. 1418 (1933); and Public
16 Law 73–352, 48 Stat. 960 (1934).

17 (4) The Navajo Indian Reservation presently
18 encompasses lands of the San Juan Southern Paiute
19 Tribe as described in the Treaty between the Navajo
20 Nation and the San Juan Southern Paiute Tribe.

21 (5) While the Diné people of the Navajo Nation
22 and the Paiute people of the San Juan Southern
23 Paiute Tribe have a long history as neighboring
24 communities, the San Juan Southern Paiute people

1 are a separate and culturally distinct Tribe residing
2 within their ancestral lands.

3 (6) The existence of the San Juan Southern
4 Paiute Tribe within the exterior boundaries of the
5 Navajo Indian Reservation and the lack of an exclu-
6 sive reservation land base causes particular hardship
7 for the people of the San Juan Southern Paiute
8 Tribe, preventing the Tribe from providing adequate
9 housing, infrastructure, healthcare, community serv-
10 ices, and public safety for its people.

11 (7) The San Juan Southern Paiute Tribe and
12 the Navajo Nation entered into a Treaty on March
13 18, 2000, to resolve and clarify the sovereign au-
14 thority of both Tribal nations, to provide a perma-
15 nent homeland for the San Juan Southern Paiute
16 Tribe, and to resolve other matters of mutual con-
17 cern.

18 (8) Ratification and approval of the Treaty by
19 Congress and the execution of the Treaty by the
20 Secretary is necessary for the Treaty to become ef-
21 fective under its terms.

22 (9) The establishment and proclamation of the
23 San Juan Southern Paiute Reservation as author-
24 ized in this Act only includes lands within the exist-
25 ing boundaries of the Navajo Indian Reservation.

1 (10) Once effective, the Treaty will—

2 (A) resolve and cause the dismissal of
3 long-running litigation concerning certain land
4 rights of the Navajo Nation and San Juan
5 Southern Paiute Tribe currently pending before
6 the United States Court of Appeals for the
7 Ninth Circuit (*Masayesva v. Zah et al.*, No. 93–
8 15216 (9th Cir.)); and

9 (B) promote cooperation and harmony be-
10 tween the Diné and Paiute people, serving as
11 an example of friendship and partnership be-
12 tween two sovereign Tribal nations.

13 **SEC. 3. DEFINITIONS.**

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

16 (1) **SAN JUAN PAIUTE NORTHERN AREA.**—The
17 term “San Juan Paiute Northern Area” means the
18 area of land located within the San Juan Southern
19 Paiute Reservation as depicted on Map B of the
20 Treaty.

21 (2) **SAN JUAN PAIUTE SOUTHERN AREA.**—The
22 term “San Juan Paiute Southern Area” means the
23 area of land within the San Juan Southern Paiute
24 Reservation depicted on Map A of the Treaty.

1 (3) SAN JUAN SOUTHERN PAIUTE RESERVA-
2 TION.—The term “San Juan Southern Paiute Res-
3 ervation” means the approximately 5,400 acres of
4 lands described in the Treaty as the “San Juan Pai-
5 ute Northern Area” and the “San Juan Paiute
6 Southern Area” located wholly within the exterior
7 boundaries of the Navajo Indian Reservation.

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (5) TREATY.—The term “Treaty” means the
11 articles of Treaty and Agreement entered into by the
12 Navajo Nation and the San Juan Southern Paiute
13 Tribe to settle land claims and other disputes, as ex-
14 ecuted on March 18, 2000, and modified by adden-
15 dum on May 7th, 2004, including all exhibits and
16 maps incorporated therein by reference.

17 **SEC. 4. RATIFICATION AND APPROVAL OF THE TREATY.**

18 The Treaty is hereby approved, ratified and con-
19 firmed by the Congress of the United States.

20 **SEC. 5. APPROVAL OF THE SECRETARY.**

21 (a) IN GENERAL.—The Secretary is authorized and
22 directed—

23 (1) to approve and execute the Treaty as set
24 forth therein, except that the specific findings stated

1 under the heading “APPROVAL,” following the
2 Treaty, shall not be binding on the Secretary; and

3 (2) to take all steps necessary to implement and
4 carry out the intent of the Treaty and this Act.

5 (b) APPROVAL OF AMENDMENTS.—The Secretary is
6 delegated the authority, without further Act of Congress,
7 to approve and execute amendments to the Treaty agreed
8 to by the Navajo Nation and the San Juan Southern Pai-
9 ute Tribe.

10 **SEC. 6. LANDS PROCLAIMED A RESERVATION FOR THE SAN**
11 **JUAN SOUTHERN PAIUTE TRIBE.**

12 (a) IN GENERAL.—All right, title and interest, in-
13 cluding water rights, to the approximately 5,400 acres of
14 land within the Navajo Indian Reservation that are de-
15 scribed in the Treaty as the San Juan Paiute Northern
16 Area and the San Juan Paiute Southern Area, are hereby
17 proclaimed as the San Juan Southern Paiute Reservation
18 and such lands shall be held by the United States in trust
19 as a reservation for the exclusive benefit of the San Juan
20 Southern Paiute Tribe, subject to the rights of access
21 under section 7 of this Act.

22 (b) NO MAJOR FEDERAL ACTION; UNDERTAKING.—
23 No action taken pursuant to this section shall be consid-
24 ered—

1 (1) a major Federal action under the National
2 Environmental Policy Act (42 U.S.C. 4321 et seq.);

3 or

4 (2) an undertaking under the National Historic
5 Preservation Act (54 U.S.C. 300101 et seq.).

6 (c) NO APPRAISAL OR VALUATION.—Notwith-
7 standing any other law, no appraisal or other valuation
8 shall be required to carry out the provisions of this section.

9 **SEC. 7. RIGHTS OF ACCESS AND EASEMENTS.**

10 The Navajo Indian Reservation and the San Juan
11 Southern Paiute Reservation shall be subject to the rights
12 of access and easements as identified in the Treaty.

13 **SEC. 8. SURVEYING AND FENCING OF LAND.**

14 (a) REQUIREMENT.—The Secretary is directed to—

15 (1) complete a survey and legal description of
16 the boundary lines to establish the boundaries of the
17 San Juan Southern Paiute Reservation, not later
18 than 18 months after the date of the enactment of
19 this Act;

20 (2) officially file the survey plat in the appro-
21 priate office of the Department of the Interior;

22 (3) mark and fence the lands as described in
23 article V of the Treaty, where feasible; and

1 (4) study the feasibility of an access road to the
2 San Juan Paiute Southern Area from U.S. Route
3 89, as described in article XI of the Treaty.

4 (b) LEGAL DESCRIPTIONS.—

5 (1) IN GENERAL.—The legal descriptions pub-
6 lished in accordance with subsection (b) shall be con-
7 sidered the official legal description of the San Juan
8 Southern Paiute Reservation and shall have the
9 same force and effect as if included in this Act.

10 (2) PUBLICATION.—Upon completion of the
11 surveys under subsection (a), the Secretary shall
12 publish in the Federal Register a legal description of
13 the lands comprising the San Juan Southern Paiute
14 Reservation.

15 (3) CORRECTIONS.—The Secretary may make
16 minor corrections to correct technical and clerical er-
17 rors in the legal descriptions.

18 **SEC. 9. REPEAL OF PAIUTE ALLOTMENT PROCEDURES.**

19 Section 9 of Public Law 93–531 (88 Stat. 1716, for-
20 merly codified at 25 U.S.C. 640d–8) is repealed.

21 **SEC. 10. WATER RIGHTS.**

22 (a) IN GENERAL.—Except as provided in the Treaty,
23 nothing in this Act shall affect any water rights, in exist-
24 ence on the date of the enactment of this Act, appurtenant

1 to the lands of the San Juan Paiute Northern Area and
2 the San Juan Paiute Southern Area.

3 (b) TRANSFER OF WATER RIGHTS.—As authorized
4 by article XV of the Treaty, the establishment of the San
5 Juan Southern Paiute Reservation from lands within the
6 Navajo Indian Reservation shall include the transfer of
7 any water rights appurtenant to those lands, including the
8 priority dates associated with such rights.

9 (c) RIGHTS HELD IN TRUST.—The water rights for
10 the San Juan Southern Paiute Reservation shall be held
11 by the United States in trust for the San Juan Southern
12 Paiute Tribe.

13 (d) CLAIMS BY THE UNITED STATES.—The United
14 States, as trustee for the San Juan Southern Paiute
15 Tribe, shall take all necessary steps to quantify the water
16 rights appurtenant to the San Juan Southern Paiute Res-
17 ervation for the benefit of the San Juan Southern Paiute
18 Tribe.

19 (e) WATER RIGHTS FOR THE SAN JUAN PAIUTE
20 NORTHERN AREA.—

21 (1) RIGHT TO WATER SERVICE.—The San Juan
22 Southern Paiute Tribe shall have the right to water
23 service for the San Juan Paiute Northern Area for
24 domestic uses on a pro rata and non-discriminatory
25 basis as described in article XIV of the Treaty.

1 (2) NO OBJECTION BY THE NAVAJO NATION.—

2 The Navajo Nation shall not object to the quan-
3 tification of water rights appurtenant to the San
4 Juan Paiute Northern Area consistent with and lim-
5 ited to the following:

6 (A) The San Juan Southern Paiute Tribe
7 shall have the right to divert all surface waters
8 arising on or flowing across the San Juan Pai-
9 ute Northern Area for any purpose consistent
10 with this Act or the Treaty.

11 (B) The San Juan Southern Paiute Tribe
12 shall have the right to pump groundwater be-
13 neath the San Juan Paiute Northern Area for
14 domestic or stock-watering uses.

15 (f) LAWFUL USES.—The San Juan Southern Paiute
16 Tribe and the Navajo Nation shall not object to uses of
17 water consistent with the rights decreed to either Tribe.

18 (g) ACCOUNTING.—The United States, on behalf of
19 the San Juan Southern Paiute Tribe, shall provide the
20 Navajo Nation with an annual accounting of the deple-
21 tions associated with the use of water on the San Juan
22 Paiute Northern Area, and the depletions associated with
23 those uses shall be accounted for as a depletion by the
24 Navajo Nation for purposes of depletion accounting.

1 (h) WATER RIGHTS FOR THE SAN JUAN PAIUTE
2 SOUTHERN AREA.—Until the water rights to the San
3 Juan Paiute Southern Area are adjudicated, the San Juan
4 Southern Paiute Tribe shall limit its water use on the San
5 Juan Paiute Southern Area to no more than 300 acre-
6 feet annually from a combination of groundwater and
7 water from springs and washes.

8 **SEC. 11. PUBLICATION; JURISDICTION.**

9 (a) PUBLICATION.—In accordance with article VI of
10 the Treaty, the Secretary shall publish in the Federal Reg-
11 ister separate notices of completion of fencing or boundary
12 marking upon completion of fencing or boundary marking
13 of—

14 (1) the San Juan Northern Area; and

15 (2) the San Juan Southern Area.

16 (b) JURISDICTION.—Upon publication in the Federal
17 Register under either subsection (a)(1) or subsection
18 (a)(2)—

19 (1) the San Juan Southern Paiute Tribe shall
20 have full jurisdiction over all matters within that
21 area of the San Juan Southern Paiute Reservation
22 to the fullest extent permitted by Federal law; and

23 (2) the Navajo Nation shall no longer have ju-
24 risdiction over matters occurring within that area of
25 the San Juan Southern Paiute Reservation except as

1 agreed to by the Navajo Nation and the San Juan
2 Southern Paiute Tribe.

3 **SEC. 12. CONSTRUCTION OF LAW.**

4 The San Juan Southern Paiute Tribe shall—

5 (1) be recognized as a Tribe of Indians within
6 the purview of the Act of June 18, 1934, as amend-
7 ed (25 U.S.C. 5101 et seq.); and

8 (2) be subject to all of the provisions thereof.

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