

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4350

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2014

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

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## A BILL

To direct the Secretary of the Interior to take lands and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important lands into trust, 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 the following:

1           (1) The Northern Cheyenne Tribe has depended  
2           on its lands and land-based resources to support its  
3           way of life since time immemorial.

4           (2) The Tribe has made supreme and historic  
5           sacrifices to repossess and maintain its homeland,  
6           including its Reservation in Montana.

7           (3) The Tribe currently suffers from tremen-  
8           dous social and economic challenges, including a lack  
9           of employment opportunities on the Reservation,  
10          which can be improved by strengthening its control  
11          over its land base, natural resources, and trust  
12          funds.

13          (4) The Tribe and its members are currently  
14          the beneficial owners of over 95 percent of the sur-  
15          face lands on the Northern Cheyenne Reservation  
16          and all but approximately 5,000 subsurface acres of  
17          the Reservation.

18          (5) The Tribe seeks to obtain ownership of ap-  
19          proximately 5,000 subsurface acres on its Reserva-  
20          tion it does not own because of an error by the  
21          United States to secure that subsurface when the  
22          Reservation was expanded in 1900.

23          (6) In 2002, the Tribe agreed by settlement to  
24          dismiss its lawsuit against the United States, which  
25          alleged that the United States failed to protect the

1       Reservation from the impacts of coal development, in  
2       return for assistance in securing tribal ownership of  
3       those subsurface rights substantially in the form of  
4       this Act, and to secure mitigation funding to address  
5       the impacts of coal development in areas adjacent to  
6       the Reservation, among other conditions.

7               (7) To increase tribal ownership of the surface  
8       lands, the Tribe has purchased approximately 932  
9       acres of land within its Reservation that were taken  
10      out of trust ownership status for various reasons.

11              (8) The Tribe has purchased approximately 635  
12      acres of land near Bear Butte, South Dakota, which  
13      the Tribe considers sacred ground for its members,  
14      as well as for members of other tribes.

15              (9) The Tribe now seeks to have the aforemen-  
16      tioned lands and subsurface within the Reservation  
17      and Bear Butte lands taken into trust on its behalf  
18      by the United States.

19              (10) If the actions authorized by this Act are  
20      completed, the Tribe will waive all legal claims  
21      against the United States arising out of the long-  
22      standing loss of the subsurface rights and arising  
23      out of the United States management of the North-  
24      ern Cheyenne Trust Fund.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **FUND.**—The term “Fund” means the  
4 Northern Cheyenne Trust Fund identified in the  
5 June 7, 1999 Agreement Settling Certain Issues Re-  
6 lating to the Tongue River Dam Project which was  
7 entered into by the Tribe, the State of Montana, and  
8 delegates of the Secretary of the Interior, and man-  
9 aged by the Office of Special Trustee in the Depart-  
10 ment of the Interior.

11 (2) **GREAT NORTHERN PROPERTIES.**—The term  
12 “Great Northern Properties” means the Great  
13 Northern Properties Limited Partnership, which is a  
14 Delaware limited partnership.

15 (3) **PERMANENT FUND.**—The term “Permanent  
16 Fund” means the Northern Cheyenne Tribe Perma-  
17 nent Fund managed by the Northern Cheyenne  
18 Tribe pursuant to the Plan for Investment, Manage-  
19 ment and Use of the Fund, as amended by vote of  
20 the Tribal membership on November 2, 2010.

21 (4) **RESERVATION.**—The term “Reservation”  
22 means the Northern Cheyenne Reservation.

23 (5) **SECRETARY.**—The term “Secretary” means  
24 the Secretary of the Interior.

25 (6) **STATE.**—The term “State” means the State  
26 of Montana.

1           (7) **TRIBE.**—The term “Tribe” means the  
2 Northern Cheyenne Tribe.

3 **SEC. 4. TRIBAL FEE LANDS TO BE TAKEN INTO TRUST.**

4           Not later than 60 days after the date of the enact-  
5 ment of this Act, the Secretary shall take the approxi-  
6 mately 1,568 acres of land depicted on the map entitled  
7 “Northern Cheyenne Land Act—Fee-to-Trust Lands”  
8 and dated March 26, 2014, and on the map entitled  
9 “Northern Cheyenne Land Act—Fee-to-Trust Lands—  
10 Lame Deer Townsite”, and dated March 26, 2014, into  
11 trust for the benefit of the Northern Cheyenne Tribe.

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

13           (a) **COMPLETION OF MINERAL CONVEYANCES.**—Not  
14 later than 60 days after the date on which the Secretary  
15 receives the notification described in subsection (d), in a  
16 single transaction—

17           (1) Great Northern Properties shall convey to  
18 the Tribe all right, title, and interest of Great  
19 Northern Properties, consisting of coal and iron ore  
20 mineral interests, underlying the land on the North-  
21 ern Cheyenne Reservation generally depicted as  
22 “Great Northern Properties” on the map entitled  
23 “Northern Cheyenne Land Act—Coal Tracts” and  
24 dated February 27, 2014;

1           (2) the Secretary shall convey to Great North-  
2           ern Properties all right, title, and interest of the  
3           United States in and to the coal mineral interests  
4           underlying the land generally depicted as “Bull  
5           Mountains” and “East Fork” on the map entitled  
6           “Northern Cheyenne Federal Tracts” and dated  
7           February 27, 2014; and

8           (3) the Secretary shall ensure that the deed for  
9           the conveyance authorized by paragraph (2) shall in-  
10          clude a covenant, running with the land—

11                 (A) that precludes the coal conveyed from  
12                 being mined by methods other than under-  
13                 ground mining techniques until any surface  
14                 owner (as defined in section 714 of Public Law  
15                 95–87 (30 U.S.C. 1304(e))) for any specific  
16                 tract has given written consent to Great North-  
17                 ern Properties to enter such specific tract and  
18                 commence surface mining; and

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

23          (b) TRUST STATUS.—Upon tribal request, the coal  
24          and iron ore mineral interests conveyed to the Tribe under

1 this section shall be held in trust by the United States  
2 for the benefit of the Tribe.

3 (c) IMMUNITIES.—The right, title, and interests con-  
4 veyed to the Tribe under subsection (a)(1) shall not be  
5 subject to taxation by the State of Montana (including any  
6 political subdivision of the State of Montana).

7 (d) REVENUE SHARING AGREEMENT.—Consistent  
8 with the Settlement Agreement entered into effective Feb-  
9 ruary 19, 2002, by the Montana State Board of Land  
10 Commissioners and the Tribe, the Tribe and Great North-  
11 ern Properties have agreed on a formula for sharing rev-  
12 enue from development of the Northern Cheyenne Federal  
13 Tracts in the event that the Northern Cheyenne Federal  
14 Tracts are developed at a later date. The Tribe shall notify  
15 the Secretary in writing that the revenue sharing agree-  
16 ment remains in effect.

17 (e) WAIVER OF LEGAL CLAIMS.—In return for the  
18 conveyances of mineral interests under subsection (a)—

19 (1) the Tribe shall waive any and all claims  
20 arising from the continuing failure of the United  
21 States to acquire the private coal and iron ore min-  
22 eral interests identified in subsection (a)(1) in trust  
23 for the Tribe as part of the Reservation as directed  
24 by Congress in 1900; and

1           (2) Great Northern Properties shall waive any  
2           claim against the United States relating to the value  
3           or completion of the conveyances under subsection  
4           (a).

5           (f) RESCISSION OF MINERAL CONVEYANCES.—If any  
6           portion of the mineral conveyances under subsection (a)  
7           is invalidated by a court of competent jurisdiction and the  
8           judgment of that court is not vacated or reversed on ap-  
9           peal—

10           (1) not later than 1 year after the date on  
11           which there is a final judgment, the Secretary or  
12           Great Northern Properties may rescind completely  
13           each mineral conveyance under subsection (a); and

14           (2) if the Secretary or Great Northern Prop-  
15           erties carries out a rescission under paragraph (1),  
16           the waiver of the Tribe under this section shall be  
17           considered to be rescinded.

18 **SEC. 6. TRANSFER OF NORTHERN CHEYENNE TRUST FUND**

19 **TO TRIBE.**

20           (a) TRANSFER OF FUND.—Not later than 30 days  
21           after the date of the enactment of this Act, the Fund shall  
22           be transferred to the Tribe and deposited into the Tribe’s  
23           Permanent Fund.

24           (b) PERMITTED USES OF FUND.—The principal of  
25           the Fund, upon deposit in the Permanent Fund, shall be

1 maintained in perpetuity, and the earnings of the Perma-  
2 nent Fund shall be used as provided in the Northern  
3 Cheyenne Tribe Permanent Fund Plan.

4 (c) WAIVER OF LEGAL CLAIMS.—In return for trans-  
5 fer of the Fund under subsection (a), the Tribe shall waive  
6 any and all claims arising from the United States manage-  
7 ment of the Fund.

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

9 No sums or other benefits provided to the Tribe  
10 under this Act shall result in the reduction or denial of  
11 any Federal services, benefits, or programs to the Tribe  
12 or to any member of the Tribe to which the Tribe or mem-  
13 ber is entitled or eligible because of—

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

16 (2) the status of the member as a member of  
17 the Tribe.

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