

116TH CONGRESS  
1ST SESSION

# H. R. 4752

To accept land into trust for the benefit of the Prairie Island Indian Community as compensation to the Tribe for Tribal lands that have been rendered dangerous by the use and storage of highly toxic nuclear materials, some of which also have been inundated by flood waters, to release the United States from related claims, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Ms. CRAIG (for herself, Mr. HAGEDORN, and Ms. MCCOLLUM) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To accept land into trust for the benefit of the Prairie Island Indian Community as compensation to the Tribe for Tribal lands that have been rendered dangerous by the use and storage of highly toxic nuclear materials, some of which also have been inundated by flood waters, to release the United States from related claims, 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 “The Prairie Island In-  
5 dian Community Land Claim Settlement Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) The members of the Prairie Island Indian  
4 Community and their ancestors have occupied what  
5 is now northern Iowa and Minnesota since long be-  
6 fore European contact, and their ancestors were  
7 present to greet the first French explorers and trad-  
8 ers who entered the Upper Mississippi watershed.

9 (2) The Tribe's Reservation is located on an is-  
10 land called Prairie Island on the Mississippi River in  
11 southeastern Minnesota, and was acquired in trust  
12 by the Secretary for the Tribe under the Indian Re-  
13 organization Act of 1934 (Act of June 18, 1934, Ch.  
14 576, 48 Stat. 984), to serve as the Tribe's perma-  
15 nent homeland.

16 (3) In 1938, the Army Corps of Engineers lo-  
17 cated and constructed Lock and Dam No. 3 on the  
18 Upper Mississippi River less than two miles down-  
19 stream from the Prairie Island Reservation.

20 (4) The operation of Lock and Dam No. 3  
21 caused permanent inundation of land on the Prairie  
22 Island Reservation, as well as ongoing overbank  
23 flooding of Reservation land, much of which lies  
24 within the Mississippi River 100-year flood plain.

25 (5) The flooding of a significant portion of the  
26 Prairie Island Reservation occurred without express

1 Congressional authorization, as required by the Con-  
2 stitution and the Indian Trade and Intercourse Act,  
3 (section 2116 of the Revised Statutes; 25 U.S.C.  
4 177).

5 (6) In 1972, the Federal Government licensed  
6 the siting of the Prairie Island Nuclear Generating  
7 Plant on Prairie Island approximately 600 yards  
8 from the Prairie Island Reservation, and later au-  
9 thORIZED the storage of spent nuclear fuel on-site. On  
10 December 16, 1973, Unit 1 of the Plant started op-  
11 eration and Unit 2 of the Plant started operating on  
12 December 21, 1974, both pursuant to 20-year oper-  
13 ating licenses.

14 (7) On June 27, 2011, the Nuclear Regulatory  
15 Commission renewed the Unit 1 and 2 operating li-  
16 censes at the plant for an additional 20 years, au-  
17 thORIZING their continued operation until 2033 and  
18 2034, respectively.

19 (8) The plant's nuclear reactor core contains  
20 zirconium-clad rods filled with enriched uranium pel-  
21 lets. The Federal courts have confirmed that the  
22 spent fuel and fuel assembly materials, while no  
23 longer useful for nuclear power generation, continue  
24 to pose a dangerous health threat, remaining lethally  
25 radioactive long into the future.

1           (9) The plant is now home to 44 dry casks that  
2           are loaded with spent nuclear fuel rods, stored in  
3           close proximity to a church, Tribal homes, a daycare  
4           center, government, cultural, language, and edu-  
5           cation offices, the Tribe’s Community Center, and  
6           Tribal businesses. The Nuclear Regulatory Commis-  
7           sion has licensed the storage of an additional 54 dry  
8           casks of spent nuclear fuel at the plant by 2034.

9           (10) There is only one improved and main-  
10          tained road leading on and off of the island, and it  
11          is shared by the Prairie Island Reservation and the  
12          Prairie Island Nuclear Generating Plant. The road  
13          crosses a busy rail corridor at grade and so can be  
14          and is often blocked by railroad traffic.

15          (11) As a result, the Tribe’s entire Reservation  
16          is under constant threat of nuclear contamination  
17          and the means of escape is limited.

18          (12) The operation of Lock and Dam No. 3, in  
19          combination with the close proximity of the Prairie  
20          Island Nuclear Generating Plant and spent nuclear  
21          fuel to the Prairie Island Reservation, threatens the  
22          safety and well-being of the Tribe and its members.

23          (13) This Act will protect the Tribe and its  
24          members, will support the Tribe’s long-term health  
25          and self-sufficiency by acquiring reservation trust

1 land for the Tribe located at a safe distance from  
2 Lock and Dam No. 3 and the Prairie Island Nuclear  
3 Generating Plant, and will relieve the United States  
4 from liability related to the flooding of the Tribe’s  
5 Reservation.

6 **SEC. 3. DEFINITIONS.**

7 For the purposes of this Act, the following definitions  
8 apply:

9 (1) **INUNDATED LAND.**—The term “Inundated  
10 Land” means land owned by or for the benefit of the  
11 Tribe that lies within the Mississippi River 9-Foot  
12 Channel Project boundary as depicted as portions of  
13 Parcels A, B, and C on the map entitled “United  
14 States Army Corps of Engineers survey map of the  
15 Upper Mississippi River 9-Foot Project, Lock &  
16 Dam No. 3 (Red Wing), Land & Flowage Rights”  
17 and dated December 1936.

18 (2) **MAP.**—The term “Map” means the map en-  
19 titled “Elk Run Properties, Olmstead Co., MN,  
20 Prairie Island Indian Community” and dated Octo-  
21 ber 17, 2019.

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

24 (4) **SETTLEMENT LAND.**—The term “Settle-  
25 ment Land” means the approximately 1,244.75

1 acres of land owned by the Tribe and depicted on  
2 the Map.

3 (5) **TRIBE.**—The term “Tribe” means the Prai-  
4 rie Island Indian Community, a federally recognized  
5 Indian Tribe.

6 **SEC. 4. ACCEPTANCE INTO TRUST OF SETTLEMENT LANDS;**  
7 **RELEASE OF CLAIMS; CONVEYANCE OF EASE-**  
8 **MENTS.**

9 (a) **SETTLEMENT LAND.**—If the Tribe provides the  
10 waiver, release of claims, and conveyance described in sub-  
11 section (b), then, at the request of the Tribe, the Secretary  
12 shall immediately place the Settlement Land into trust for  
13 the benefit of the Tribe, subject to—

14 (1) any valid existing rights of any third parties  
15 of record; and

16 (2) approval of the form and content of any and  
17 all instruments of conveyance.

18 (b) **WAIVER AND RELEASE OF CLAIMS AND CONVEY-**  
19 **ANCE OF INTERESTS IN LANDS.**—The Secretary shall be  
20 required to carry out the obligations of subsection (a) not  
21 later than 6 months after the Secretary’s receipt from the  
22 Tribe of—

23 (1) a waiver and release of any and all of its  
24 claims in law or equity against the United States for  
25 the unauthorized taking of the Inundated Land; and

1           (2) confirmation that the Tribe has conveyed to  
2           the Secretary of Defense such easements to the In-  
3           undated Land as are necessary to confirm in the  
4           United States a perpetual right to overflow, flood,  
5           and temporarily or permanently inundate the Inun-  
6           dated Land in connection with the operation and  
7           maintenance of the Mississippi River Navigation  
8           Project.

9           (c) RESERVATION OF RIGHTS AND RETENTION OF  
10          CLAIMS.—Notwithstanding the waivers and releases au-  
11          thorized in this Act, the Tribe shall retain any and all  
12          claims accruing after the date upon which the Secretary  
13          receives the waiver, release of claims, and conveyance de-  
14          scribed in subsection (b).

15          (d) STATUS OF LANDS AND INTERESTS IN LANDS.—  
16          Upon the Secretary's placement of the Settlement Land  
17          into trust for the benefit of the Tribe pursuant to sub-  
18          section (a), the Settlement Land shall be deemed to be  
19          part of the Tribe's Reservation and to have been reserved  
20          for the Tribe as of the first date that the Inundated Land  
21          was accepted in trust for the Tribe.

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