

118TH CONGRESS
1ST SESSION

H. R. 650

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2023

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

A BILL

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.

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—

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

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

15 (3) the Community is also a successor in inter-
16 est to the Treaty with the Chippewa Indians of Lake
17 Superior and the Mississippi, made and concluded at
18 La Pointe September 30, 1854 (10 Stat. 1109) (re-
19 ferred to in this section as the “1854 Treaty”);

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

23 (5) pursuant to article 13 of the 1854 Treaty,
24 the 1854 Treaty became “obligatory on the con-

1 tracting parties” when ratified by the President and
2 the Senate on January 10, 1855;

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

13 (7) following enactment of the Swamp Land
14 Act, the State claimed thousands of acres of swamp
15 land in the State pursuant to that Act;

16 (8) between 1893 and 1937, the General Land
17 Office patented 2,743 acres of land to the State that
18 were located within the exterior boundaries of the
19 Reservation (referred to in this section as “Reserva-
20 tion Swamp Lands”);

21 (9) the right of the Community to use and oc-
22 cupy the unsold land within the Reservation had not
23 been extinguished when the United States patented
24 the Reservation Swamp Lands to the State;

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

7 (11) pursuant to the Canal Land Act, the
8 United States granted the State the right to select
9 750,000 acres of unsold public land within the State
10 to defray the cost of construction of the Sault Ste.
11 Marie Canal;

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

17 (13) the Department of the Interior approved
18 the land selections of the State, including the Res-
19 ervation Canal Lands, after ratification of the 1854
20 Treaty;

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

24 (15) the 1854 Treaty set apart from the public
25 domain all unsold land within the Reservation to the

1 Community as of September 30, 1854, which pre-
2 ceded the date on which the State established legally
3 effective title to the Reservation Canal Lands;

4 (16) the Community made claims to the De-
5 partment of the Interior with respect to the Reserva-
6 tion Swamp Lands and the Reservation Canal
7 Lands, providing legal analysis and ethnohistorical
8 support for those claims;

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

14 (18) the United States, through the actions of
15 the General Land Office, deprived the Community of
16 the exclusive use and occupancy of the Reservation
17 Swamp Lands and the Reservation Canal Lands
18 within the Reservation, without just compensation as
19 required under the Takings Clause of the Fifth
20 Amendment to the Constitution of the United
21 States;

22 (19) the loss of the Reservation Swamp Lands
23 and the Reservation Canal Lands without just com-
24 pensation has—

1 (A) impacted the exercise by the Commu-
2 nity of cultural, religious, and subsistence
3 rights on the land;

4 (B) caused a harmful disconnect between
5 the Community and its land;

6 (C) impacted the ability of the Community
7 to fully exercise its economy within the Reserva-
8 tion; and

9 (D) had a negative economic impact on the
10 development of the economy of the Community;

11 (20) certain non-Indian individuals, entities,
12 and local governments occupy land within the
13 boundaries of the Reservation—

14 (A) acquired ownership interests in the
15 Reservation Swamp Lands and the Reservation
16 Canal Lands in good faith; and

17 (B) have an interest in possessing clear
18 title to that land;

19 (21) this Act allows the United States—

20 (A) to secure a fair and equitable settle-
21 ment of past inequities suffered by the Commu-
22 nity as a result of the actions of the United
23 States that caused the taking of the Reserva-
24 tion Swamp Lands and the Reservation Canal
25 Lands without just compensation; and

1 (B) to ensure protection of the ownership
2 of the Reservation Swamp Lands and the Res-
3 ervation Canal Lands by non-Indian occupants
4 of the Reservation, through the settlement of
5 the claims of the Community to that land, and
6 through that action, the relief of any clouds on
7 title;

8 (22) a settlement will allow the Community to
9 receive just compensation and the local landowners
10 to obtain clear title to land, without long and pro-
11 tracted litigation that would be both costly and det-
12 rimental to all involved; and

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

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are—

18 (1) to acknowledge the uncompensated taking
19 by the Federal Government of the Reservation
20 Swamp Lands and the Reservation Canal Lands;

21 (2) to provide compensation to the Community
22 for the uncompensated taking of the Reservation
23 Swamp Lands and the Reservation Canal Lands by
24 the Federal Government;

1 (3) to extinguish all claims by the Community
2 to the Reservation Swamp Lands and the Reserva-
3 tion Canal Lands and to confirm the ownership by
4 the current landowners of the Reservation Swamp
5 Lands and the Reservation Canal Lands, who ob-
6 tained that land in good faith;

7 (4) to extinguish all potential claims by the
8 Community against the United States, the State,
9 and current landowners concerning title to, use of,
10 or occupancy of the Reservation Swamp Lands and
11 the Reservation Canal Lands; and

12 (5) to authorize the Secretary—

13 (A) to compensate the Community; and

14 (B) to take any other action necessary to
15 carry out this Act.

16 **SEC. 4. DEFINITIONS.**

17 In this Act:

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

20 (2) **COUNTY.**—The term “County” means
21 Baraga County, Michigan.

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

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

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

- 1 (C) T. 50 N., R. 33 W., E $\frac{1}{2}$;
2 (D) T. 50 N., R. 32 W., W $\frac{1}{2}$; and
3 (E) that portion of T. 51 N., R. 31 W.
4 lying west of Huron Bay.

5 (4) RESERVATION CANAL LANDS.—The term
6 “Reservation Canal Lands” means the 1,333.25 to
7 2,720 acres of Community land located within the
8 exterior boundaries of the Reservation that the Fed-
9 eral Government conveyed to the State pursuant to
10 the Act of August 26, 1852 (10 Stat. 35, chapter
11 92).

12 (5) RESERVATION SWAMP LANDS.—The term
13 “Reservation Swamp Lands” means the 2,743 acres
14 of land located within the exterior boundaries of the
15 Reservation that the Federal Government conveyed
16 to the State between 1893 and 1937 pursuant to the
17 Act of September 28, 1850 (commonly known as the
18 “Swamp Land Act”) (sections 2479 through 2481 of
19 the Revised Statutes (43 U.S.C. 982 through 984)).

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 (7) STATE.—The term “State” means the State
23 of Michigan.

1 **SEC. 5. PAYMENTS.**

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

7 (b) USE OF FUNDS.—

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

11 (A) governmental services;

12 (B) economic development;

13 (C) natural resources protection; and

14 (D) land acquisition.

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

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to the Secretary to carry
20 out subsection (a), \$33,900,000 for fiscal year 2024, to
21 remain available until expended.

22 **SEC. 6. EXTINGUISHMENT OF CLAIMS.**

23 (a) IN GENERAL.—Effective on the date on which the
24 Community receives the payment under section 5(a), all
25 claims of the Community to the Reservation Swamp

1 Lands and the Reservation Canal Lands owned by persons
2 or entities other than the Community are extinguished.

3 (b) CLEAR TITLE.—Effective on the date on which
4 the Community receives the payment under section 5(a),
5 the title of all current owners to the Reservation Swamp
6 Lands and the Reservation Canal Lands is cleared of all
7 preexisting rights held by the Community and any of the
8 members of the Community.

9 **SEC. 7. EFFECT.**

10 Nothing in this Act authorizes—

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

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

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