

117TH CONGRESS  
2D SESSION

# H. R. 9480

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.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2022

Mr. O'HALLERAN introduced the following bill; which was referred to the Committee on Natural Resources

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## 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 2022”.

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 author-  
14 ity of both Tribal nations, to provide a permanent  
15 homeland for the San Juan Southern Paiute Tribe,  
16 and to resolve other matters of mutual concern.

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

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

25 (10) Once effective, the Treaty will—

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

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

12 **SEC. 3. DEFINITIONS.**

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

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

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

24           (3) **SAN JUAN SOUTHERN PAIUTE RESERVA-**  
25           **TION.**—The term “San Juan Southern Paiute Res-

1       ervation” means the approximately 5,400 acres of  
2       lands described in the Treaty as the “San Juan Pai-  
3       ute Northern Area” and the “San Juan Paiute  
4       Southern Area” located wholly within the exterior  
5       boundaries of the Navajo Indian Reservation.

6               (4) SECRETARY.—The term “Secretary” means  
7       the Secretary of the Interior.

8               (5) TREATY.—The term “Treaty” means the  
9       Articles of Treaty and Agreement entered into by  
10       the Navajo Nation and the San Juan Southern Pai-  
11       ute Tribe to settle land claims and other disputes,  
12       as executed on March 18, 2000, and modified by ad-  
13       dendum on May 7th, 2004, including all exhibits  
14       and maps incorporated therein by reference.

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

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

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

19       (a) IN GENERAL.—The Secretary is authorized and  
20       directed—

21               (1) to approve and execute the Treaty as set  
22       forth therein, except that the specific findings stated  
23       under the heading “APPROVAL,” following the  
24       Treaty, shall not be binding on the Secretary; and



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

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

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

7        The Navajo Indian Reservation and the San Juan  
8        Southern Paiute Reservation shall be subject to the rights  
9        of access and easements as identified in the Treaty.

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

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

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

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

19           (3) mark and fence the lands as described in  
20        Article V of the Treaty, where feasible; and

21           (4) study the feasibility of an access road to the  
22        San Juan Paiute Southern Area from U.S. Route  
23        89, as described in Article XI of the Treaty.

24        (b) LEGAL DESCRIPTIONS.—

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

6           (2) PUBLICATION.—Upon completion of the  
7           surveys under subsection (a), the Secretary shall  
8           publish in the Federal Register a legal description of  
9           the lands comprising the San Juan Southern Paiute  
10          Reservation.

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

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

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

17 **SEC. 10. WATER RIGHTS.**

18          (a) IN GENERAL.—Except as provided in the Treaty,  
19          nothing in this Act shall affect any water rights, in exist-  
20          ence on the date of the enactment of this Act, appurtenant  
21          to the lands of the San Juan Paiute Northern Area and  
22          the San Juan Paiute Southern Area.

23          (b) TRANSFER OF WATER RIGHTS.—As authorized  
24          by Article XV of the Treaty, the establishment of the San  
25          Juan Southern Paiute Reservation from lands within the



1 Navajo Indian Reservation shall include the transfer of  
2 any water rights appurtenant to those lands, including the  
3 priority dates associated with such rights.

4 (c) RIGHTS HELD IN TRUST.—The water rights for  
5 the San Juan Southern Paiute Reservation shall be held  
6 by the United States in trust for the San Juan Southern  
7 Paiute Tribe.

8 (d) CLAIMS BY THE UNITED STATES.—The United  
9 States, as trustee for the San Juan Southern Paiute  
10 Tribe, shall take all necessary steps to quantify the water  
11 rights appurtenant to the San Juan Southern Paiute Res-  
12 ervation for the benefit of the San Juan Southern Paiute  
13 Tribe.

14 (e) WATER RIGHTS FOR THE SAN JUAN PAIUTE  
15 NORTHERN AREA.—

16 (1) RIGHT TO WATER SERVICE.—The San Juan  
17 Southern Paiute Tribe shall have the right to water  
18 service for the San Juan Paiute Northern Area for  
19 domestic uses on a pro rata and non-discriminatory  
20 basis as described in Article XIV of the Treaty.

21 (2) NO OBJECTION BY THE NAVAJO NATION.—  
22 The Navajo Nation shall not object to the quan-  
23 tification of water rights appurtenant to the San  
24 Juan Paiute Northern Area consistent with and lim-  
25 ited to the following:

1           (A) The San Juan Southern Paiute Tribe  
2 shall have the right to divert all surface waters  
3 arising on or flowing across the San Juan Pai-  
4 ute Northern Area for any purpose consistent  
5 with this Act or the Treaty.

6           (B) The San Juan Southern Paiute Tribe  
7 shall have the right to pump groundwater be-  
8 neath the San Juan Paiute Northern Area for  
9 domestic or stock-watering uses.

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

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

20       (h) **WATER RIGHTS FOR THE SAN JUAN PAIUTE**  
21 **SOUTHERN AREA.**—Until the water rights to the San  
22 Juan Paiute Southern Area are adjudicated, the San Juan  
23 Southern Paiute Tribe shall limit its water use on the San  
24 Juan Paiute Southern Area to no more than 300 acre-

1 feet annually from a combination of groundwater and  
2 water from springs and washes.

3 **SEC. 11. PUBLICATION; JURISDICTION.**

4 (a) PUBLICATION.—In accordance with Article VI of  
5 the Treaty, the Secretary shall publish in the Federal Reg-  
6 ister separate notices of completion of fencing or boundary  
7 marking upon completion of fencing or boundary marking  
8 of —

9 (1) the San Juan Northern Area; and

10 (2) the San Juan Southern Area.

11 (b) JURISDICTION.—Upon publication in the Federal  
12 Register under either subsection (a)(1) or subsection  
13 (a)(2)—

14 (1) the San Juan Southern Paiute Tribe shall  
15 have full jurisdiction over all matters within that  
16 area of the San Juan Southern Paiute Reservation  
17 to the fullest extent permitted by Federal law; and

18 (2) the Navajo Nation shall no longer have ju-  
19 risdiction over matters occurring within that area of  
20 the San Juan Southern Paiute Reservation except as  
21 agreed to by the Navajo Nation and the San Juan  
22 Southern Paiute Tribe.

23 **SEC. 12. CONSTRUCTION OF LAW.**

24 The San Juan Southern Paiute Tribe shall—

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

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

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