

## Calendar No. 514

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1879****[Report No. 114–275]**

To improve processes in the Department of the Interior, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 28, 2015

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JUNE 9, 2016

Reported by Mr. BARRASSO, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To improve processes in the Department of the Interior,  
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 “Interior Improvement  
5       Act”.

1 **SEC. 2. DEFINITIONS.**

2 (a) **IN GENERAL.**—The first sentence of section 19  
3 of the Act of June 18, 1934 (commonly known as the “In-  
4 dian Reorganization Act”) (25 U.S.C. 479), is amended—

5 (1) by striking “The term” and inserting “Ef-  
6 fective beginning on June 18, 1934, the term”; and

7 (2) by striking “any recognized Indian tribe  
8 now under Federal jurisdiction” and inserting “any  
9 federally recognized Indian tribe”.

10 (b) **RETROACTIVE PROTECTION.**—To the extent a  
11 trust acquisition by the Secretary of the Interior pursuant  
12 to the Act of June 18, 1934 (commonly known as the “In-  
13 dian Reorganization Act”) (25 U.S.C. 461 et seq.), is sub-  
14 jected to a challenge based on whether an Indian tribe was  
15 federally recognized or under Federal jurisdiction on June  
16 18, 1934, that acquisition is ratified and confirmed.

17 **SEC. 3. LAND ACQUISITION APPLICATIONS.**

18 The Act of June 18, 1934 (commonly known as the  
19 “Indian Reorganization Act”), is amended by inserting  
20 after section 5 (25 U.S.C. 465) the following:

21 **“SEC. 5A. LAND ACQUISITION APPLICATIONS.**

22 **“(a) DEFINITIONS.**—In this section:

23 **“(1) APPLICANT.**—The term ‘applicant’ means  
24 an Indian tribe or individual Indian (as defined in  
25 section 4 of the Indian Self-Determination and Edu-

1 eation Assistance Act (25 U.S.C. 450b)) who sub-  
2 mits an application under subsection (b).

3 “(2) APPLICATION.—The term ‘application’  
4 means an application submitted to the Department  
5 by an Indian tribe or individual Indian under sub-  
6 section (b).

7 “(3) CONTIGUOUS.—The term ‘contiguous’—

8 “(A) means 2 parcels of land having a  
9 common boundary, notwithstanding the exist-  
10 ence of non-navigable waters or a public road or  
11 right-of-way; and

12 “(B) includes parcels that touch at a point.

13 “(4) CONTIGUOUS JURISDICTION.—The term  
14 ‘contiguous jurisdiction’ means any county, county  
15 equivalent, or Indian tribe with authority and con-  
16 trol over the land contiguous to the land under con-  
17 sideration in an application.

18 “(5) COUNTY AND COUNTY EQUIVALENT.—The  
19 terms ‘county’ and ‘county equivalent’ mean the  
20 largest territorial division for local government with-  
21 in a State with the authority to enter into enforce-  
22 able cooperative agreements with Indian tribes or in-  
23 dividual Indians, as appropriate.

24 “(6) DEPARTMENT.—The term ‘Department’  
25 means the Department of the Interior.

1           “(7) ECONOMIC IMPACT.—The term ‘economic  
2           impact’ means any anticipated costs associated with  
3           the development of or activity on the land under  
4           consideration in an application, including associated  
5           costs to a contiguous jurisdiction for utilities, public  
6           works, public safety, roads, maintenance, and other  
7           public service costs.

8           “(8) FINAL DECISION.—The term ‘final deci-  
9           sion’ means a decision that is final for the Depart-  
10          ment, as determined or defined by the Secretary.

11          “(9) INDIAN TRIBE.—The term ‘Indian tribe’  
12          has the meaning given the term in section 4 of the  
13          Indian Self-Determination and Education Assistance  
14          Act (25 U.S.C. 450b).

15          “(10) SECRETARY.—The term ‘Secretary’  
16          means the Secretary of the Interior.

17          “(b) APPLICATIONS.—

18                 “(1) IN GENERAL.—An Indian tribe or indi-  
19                 vidual Indian seeking to have off-reservation fee or  
20                 restricted land taken into trust for the benefit of  
21                 that Indian tribe or individual Indian shall submit  
22                 an application to the Secretary at such time, in such  
23                 manner, and containing such information as this  
24                 section and the Secretary require.

1           “(2) REQUIREMENTS.—The Secretary may ap-  
2           prove complete applications described in paragraph  
3           (1) on a discretionary basis, subject to the condition  
4           that the application includes—

5                   “(A) a written request for approval of a  
6                   trust acquisition by the United States for the  
7                   benefit of the applicant;

8                   “(B) the legal name of the applicant, in-  
9                   cluding, in the case of an applicant that is an  
10                  Indian tribe, the tribal name of the applicant as  
11                  the name appears in the list of recognized In-  
12                  dian tribes published by the Secretary in the  
13                  Federal Register pursuant to section 104 of the  
14                  Federally Recognized Indian Tribe List Act of  
15                  1994 (25 U.S.C. 479a-1);

16                  “(C) a legal description of the land to be  
17                  acquired;

18                  “(D) a description of the need for the pro-  
19                  posed acquisition of the property;

20                  “(E) a description of the purpose for which  
21                  the property is to be used;

22                  “(F) a legal instrument to verify current  
23                  ownership, such as a deed;

24                  “(G) statutory authority for the proposed  
25                  acquisition of the property;

1           “(H) a business plan for management of  
2           the land to be acquired, if the application is for  
3           business purposes;

4           “(I) the location of the land to be acquired  
5           relative to State and reservation boundaries;  
6           and

7           “(J) a copy of any cooperative agreement  
8           between the applicant and a contiguous juris-  
9           diction.

10          “(3) FINAL DECISION.—After considering an  
11          application described in this subsection and in ac-  
12          cordance with subsection (c) and any other applica-  
13          ble Federal law or regulation, a final decision to ap-  
14          prove or deny the completed application shall be  
15          issued.

16          “(c) STATUTORY NOTICE AND COMMENT REQUIRE-  
17          MENTS.—

18                 “(1) NOTICE AND COMMENT REQUIREMENTS  
19                 FOR INITIAL APPLICATIONS.—

20                         “(A) NOTICE.—

21                                 “(i) IN GENERAL.—Not later than 30  
22                                 days after the date on which the Secretary  
23                                 receives an initial application, the Sec-  
24                                 retary shall make that application, whether  
25                                 complete or incomplete, available to the

1 public on the website of the Department,  
2 subject to applicable Federal privacy laws.

3 ~~“(ii) ADDITIONAL NOTICE REQUIRE-~~  
4 ~~MENT.—Not later than 30 days after the~~  
5 ~~date on which the Secretary receives an~~  
6 ~~initial application, the Secretary shall pro-~~  
7 ~~vide by certified mail notice of the applica-~~  
8 ~~tion to contiguous jurisdictions.~~

9 ~~“(B) COMMENT.—Each contiguous juris-~~  
10 ~~isdiction notified under subparagraph (A)(ii)~~  
11 ~~shall have not fewer than 30 days, beginning on~~  
12 ~~the date that the contiguous jurisdiction re-~~  
13 ~~ceives the notice, to comment on that initial ap-~~  
14 ~~plication.~~

15 ~~“(2) NOTICE REQUIREMENT FOR ANY APPLICA-~~  
16 ~~TION UPDATE, MODIFICATION, OR WITHDRAWAL.—~~

17 ~~“(A) IN GENERAL.—If at any time an ap-~~  
18 ~~plication is updated, modified, or withdrawn,~~  
19 ~~not later than 5 days after the date on which~~  
20 ~~the Secretary receives notice of that update,~~  
21 ~~modification, or withdrawal, the Secretary shall~~  
22 ~~make that information available to the public~~  
23 ~~on the website of the Department, subject to~~  
24 ~~any applicable Federal privacy laws.~~

1           “(B) INCLUSION.—If an application has  
2           been updated or modified in any way, the notice  
3           described in subparagraph (A) shall include a  
4           description of the changes made and the up-  
5           dated or modified application, whether complete  
6           or incomplete, available on the website of the  
7           Department, subject to any applicable Federal  
8           privacy laws.

9           “(3) NOTICE AND COMMENT REQUIREMENTS  
10          FOR COMPLETED APPLICATIONS.—

11           “(A) NOTICE.—

12           “(i) IN GENERAL.—Not later than 30  
13           days after the date on which the Secretary  
14           receives a completed application, the Sec-  
15           retary shall make that application available  
16           to the public on the website of the Depart-  
17           ment, subject to any applicable Federal  
18           privacy laws.

19           “(ii) ADDITIONAL NOTICE REQUIRE-  
20           MENTS.—Not later than 30 days after the  
21           date on which the Secretary receives a  
22           completed application, the Secretary shall  
23           provide by certified mail notice of the ap-  
24           plication to contiguous jurisdictions.



1           “(iii) PUBLICATION IN FEDERAL REG-  
2           ISTER.—Not later than 5 days after the  
3           date on which the Secretary receives a  
4           completed application, the Secretary shall  
5           publish in the Federal Register notice of  
6           the completed application.

7           “(B) COMMENT.—Contiguous jurisdictions  
8           shall have not fewer than 30 days, beginning on  
9           the date on which the contiguous jurisdiction  
10          receives notice under subparagraph (A)(ii), to  
11          comment on that completed application.

12          “(4) NOTICE OF DECISION.—

13                 “(A) IN GENERAL.—Not later than 5 days  
14                 after a final decision to approve or deny an ap-  
15                 plication is issued, the Secretary shall issue a  
16                 notice of decision and make the notice of deci-  
17                 sion available to the public on the website of the  
18                 Department.

19                 “(B) PUBLICATION IN FEDERAL REG-  
20                 ISTER.—Not later than 5 days after a final de-  
21                 cision to approve or deny an application is  
22                 issued, the Secretary shall publish in the Fed-  
23                 eral Register the notice of decision described in  
24                 subparagraph (A).

25          “(d) ENCOURAGING LOCAL COOPERATION.—

1           “(1) IN GENERAL.—The Secretary shall encour-  
2           age, but may not require, applicants to enter into co-  
3           operative agreements with contiguous jurisdictions.

4           “(2) COOPERATIVE AGREEMENTS.—

5           “(A) IN GENERAL.—The Secretary shall  
6           give weight and preference to an application  
7           with a cooperative agreement described in para-  
8           graph (1).

9           “(B) TERMS OF AGREEMENT.—A coopera-  
10          tive agreement described in paragraph (1) may  
11          include terms relating to mitigation, changes in  
12          land use, dispute resolution, fees, and other  
13          terms determined by the parties to be appro-  
14          priate.

15          “(C) SUBMISSION OF COOPERATIVE  
16          AGREEMENT.—

17          “(i) IN GENERAL.—If an applicant  
18          submits to the Secretary a cooperative  
19          agreement or multiple cooperative agree-  
20          ments executed between the applicant and  
21          contiguous jurisdictions, the Secretary  
22          shall issue a final decision to approve or  
23          deny a complete application not later  
24          than—

1           “(I) 60 days after the date of  
2           completion of the review process  
3           under the National Environmental  
4           Policy Act of 1969 (42 U.S.C. 4321  
5           et seq.) described in clause (ii); or

6           “(II) if that review process is not  
7           applicable, 30 days after the date on  
8           which a complete application is re-  
9           ceived by the Secretary.

10          “(ii) **TIMELINE.**—Completion of the  
11          review process under the National Environ-  
12          mental Policy Act of 1969 (42 U.S.C.  
13          4321 et seq.) described in clause (i) may  
14          refer to—

15               “(I) the issuance of a categorical  
16               exclusion determination in accordance  
17               with section 6.204 of title 40, Code of  
18               Federal Regulations (or successor reg-  
19               ulations);

20               “(II) an environmental assess-  
21               ment finding of no significant impact  
22               in accordance with section 6.206 of  
23               title 40, Code of Federal Regulations  
24               (or successor regulations); or

1                   “(III) the issuance of a record of  
2                   decision in accordance with section  
3                   6.208 of title 40, Code of Federal  
4                   Regulations (or successor regulations):

5                   “(iii) EFFECT OF FAILURE TO ISSUE  
6                   TIMELY FINAL DECISION.—If the Secretary  
7                   fails to issue a final decision by the date  
8                   described in clause (i), the application shall  
9                   be—

10                   “(I) deemed approved on an  
11                   automatic basis; and

12                   “(II) treated as a final decision.

13                   “(D) COOPERATIVE AGREEMENT NOT SUB-  
14                   MITTED.—

15                   “(i) IN GENERAL.—If an applicant  
16                   does not submit to the Secretary a cooper-  
17                   ative agreement executed between the ap-  
18                   plicant and contiguous jurisdictions, the  
19                   Secretary shall issue a written determina-  
20                   tion of mitigation by the date that is not  
21                   later than 30 days after a complete appli-  
22                   cation is received by the Secretary, which  
23                   shall—

24                   “(I) describe whether any eco-  
25                   nomic impacts on contiguous jurisdic-

1           tions have been mitigated to the ex-  
2           tent practicable; and

3                   “(H) explain the basis of that de-  
4           termination.

5                   “(ii) DETERMINATION OF MITIGA-  
6           TION.—The Secretary shall consider a de-  
7           termination of mitigation in making a final  
8           decision to approve or deny an application,  
9           but that determination shall not halt or  
10          unduly delay the regular processing of an  
11          application.

12                   “(iii) CONSIDERATIONS.—In making a  
13          determination of mitigation described in  
14          clause (i), the Secretary shall take into  
15          consideration—

16                   “(I) the anticipated economic im-  
17          pact of approving an application on  
18          contiguous jurisdictions; and

19                   “(H) whether the absence of a  
20          cooperative agreement is attributable  
21          to the failure of any contiguous juris-  
22          diction to work in good faith to reach  
23          an agreement with the applicant.

24                   “(iv) NOTICE.—The Secretary shall  
25          provide by certified mail a copy of the de-

1 termination of mitigation described in  
2 clause (i) to the applicant and contiguous  
3 jurisdictions not less than 5 days after a  
4 determination of mitigation is issued.

5 “(v) GOOD FAITH PROTECTION.—

6 Failure to submit a cooperative agreement  
7 shall not prejudice an application if the  
8 Secretary determines that the failure to  
9 submit is attributable to the failure of any  
10 contiguous jurisdiction to work in good  
11 faith to reach an agreement.

12 “(3) RECIPROCAL NOTICE AND COMMENT.—

13 The Secretary shall also encourage contiguous juris-  
14 dictions to engage in local cooperation through recip-  
15 rocal notice and comment procedures, particularly  
16 with regard to changes in land use.

17 “(e) IMPLEMENTATION.—

18 “(1) CONSULTATION.—Not later than 60 days  
19 after the date of enactment of this section, the Sec-  
20 retary shall initiate consultation with Indian tribes  
21 regarding the implementation of this section.

22 “(2) SUMMARY.—Not later than 180 days after  
23 the date on which the consultation described in  
24 paragraph (1) is initiated, the Secretary shall issue

1 a summary of the consultation and the summary  
2 shall be published in the Federal Register.

3 “(3) RULEMAKING.—Not later than 60 days  
4 after the date on which the summary described in  
5 paragraph (2) is published in the Federal Register,  
6 the Secretary shall, through a rulemaking under sec-  
7 tion 553 of title 5, United States Code, modify exist-  
8 ing regulations, guidance, rules, and policy state-  
9 ments, as necessary to carry out this section.

10 “(f) JUDICIAL REVIEW.—

11 “(1) IN GENERAL.—An applicant or contiguous  
12 jurisdiction may seek review of a final decision.

13 “(2) ADMINISTRATIVE REVIEW.—An applicant  
14 or contiguous jurisdiction may seek review in a  
15 United States district court only after exhausting all  
16 available administrative remedies.”.

17 **SEC. 4. EFFECT.**

18 (a) OTHER LAND DETERMINATIONS.—Nothing in  
19 this Act (or an amendment made by this Act) impacts any  
20 other Federal Indian land determination.

21 (b) EFFECT ON OTHER LAWS.—Nothing in this Act  
22 (or the amendments made by this Act) affects—

23 (1) the application or effect of any Federal law  
24 other than the Act of June 18, 1934 (25 U.S.C. 461  
25 et seq.); or

1           ~~(2) any limitation on the authority of the Sec-~~  
2           ~~retary of the Interior under any Federal law or reg-~~  
3           ~~ulation other than the Act of June 18, 1934 (25~~  
4           ~~U.S.C. 461 et seq.).~~

5 **SECTION 1. SHORT TITLE.**

6           *This Act may be cited as the “Interior Improvement*  
7 *Act”.*

8 **SEC. 2. DEFINITIONS.**

9           *(a) IN GENERAL.—The first sentence of section 19 of*  
10 *the Act of June 18, 1934 (commonly known as the “Indian*  
11 *Reorganization Act”)* (25 U.S.C. 479), *is amended—*

12                     *(1) by striking “The term” and inserting “Effec-*  
13 *tive beginning on June 18, 1934, the term”; and*

14                     *(2) by striking “any recognized Indian tribe now*  
15 *under Federal jurisdiction” and inserting “any feder-*  
16 *ally recognized Indian tribe”.*

17           *(b) RETROACTIVE PROTECTION.—To the extent a trust*  
18 *acquisition by the Secretary of the Interior pursuant to the*  
19 *Act of June 18, 1934 (commonly known as the “Indian Re-*  
20 *organization Act”)* (25 U.S.C. 461 et seq.), *is subjected to*  
21 *a challenge based on whether an Indian tribe was federally*  
22 *recognized or under Federal jurisdiction on June 18, 1934,*  
23 *that acquisition is ratified and confirmed.*



1 **SEC. 3. IMPROVING LAND ACQUISITIONS.**

2 *The Act of June 18, 1934 (commonly known as the*  
 3 *“Indian Reorganization Act”)*, is amended by inserting  
 4 *after section 5 (25 U.S.C. 465) the following:*

5 **“SEC. 5A. LAND ACQUISITION APPLICATIONS.**

6 *“(a) DEFINITIONS.—In this section:*

7 *“(1) APPLICANT.—The term ‘applicant’ means*  
 8 *an Indian tribe or individual Indian who—*

9 *“(A) submits an application under sub-*  
 10 *section (b)(1)(A); or*

11 *“(B) is deemed an applicant under sub-*  
 12 *section (b)(1)(B).*

13 *“(2) APPLICATION.—The term ‘application’*  
 14 *means an application submitted to the Department*  
 15 *by an applicant under subsection (b).*

16 *“(3) CONTIGUOUS.—The term ‘contiguous’—*

17 *“(A) means 2 parcels of land having a com-*  
 18 *mon boundary, notwithstanding the existence of*  
 19 *non-navigable waters or a public road or right-*  
 20 *of-way; and*

21 *“(B) includes parcels that touch at a point.*

22 *“(4) CONTIGUOUS JURISDICTION.—The term*  
 23 *‘contiguous jurisdiction’ means any county, county*  
 24 *equivalent, or Indian tribe, or the Federal Govern-*  
 25 *ment, with governmental jurisdiction over the land*

1       *contiguous to the land under consideration in an ap-*  
2       *plication.*

3               “(5) *COOPERATIVE AGREEMENT.*—

4                       “(A) *IN GENERAL.*—*The term ‘cooperative*  
5                       *agreement’ means any enforceable contract by*  
6                       *which the parties bind themselves to work jointly*  
7                       *and productively toward some mutually bene-*  
8                       *ficial end.*

9                       “(B) *INCLUSION.*—*The term ‘cooperative*  
10                      *agreement’ includes a memorandum of under-*  
11                      *standing, an intergovernmental agreement, or*  
12                      *any other enforceable contract.*

13                     “(6) *COUNTY AND COUNTY EQUIVALENT .*—*The*  
14                     *terms ‘county’ and ‘county equivalent’ mean the larg-*  
15                     *est territorial division for local government within a*  
16                     *State with the authority to enter into enforceable co-*  
17                     *operative agreements with Indian tribes or individual*  
18                     *Indians.*

19                     “(7) *DEPARTMENT.*—*The term ‘Department’*  
20                     *means the Department of the Interior.*

21                     “(8) *DETERMINATION OF MITIGATION.*—*The term*  
22                     *‘determination of mitigation’ means a written Secre-*  
23                     *tarial determination that—*

1           “(A) describes whether anticipated impacts  
2           on contiguous jurisdictions have been mitigated  
3           to the maximum extent practicable; and

4           “(B) explains the basis of that determina-  
5           tion.

6           “(9) *EXPLANATION OF FINAL DECISION.*—The  
7           term ‘explanation of final decision’ means a written  
8           explanation—

9           “(A) of the basis of a final decision to ap-  
10          prove or deny an application; and

11          “(B) that explicitly addresses all require-  
12          ments and considerations described in subsection  
13          (e)(1).

14          “(10) *FINAL DECISION.*—The term ‘final deci-  
15          sion’ means a decision that is final for the Depart-  
16          ment, as determined or defined by the Secretary.

17          “(11) *IMPACTS.*—The term ‘impacts’ means the  
18          anticipated costs and benefits to the applicant, contig-  
19          uous jurisdictions, and any other Indian tribe with  
20          governmental functions, infrastructure, or services  
21          that would be directly, immediately, and significantly  
22          impacted by the proposed acquisition.

23          “(12) *INDIAN TRIBE .*—The term ‘Indian tribe’  
24          means an Indian tribe included in the list published  
25          by the Secretary in the Federal Register pursuant to

1 *section 104 of the Federally Recognized Indian Tribe*  
 2 *List Act of 1994 (25 U.S.C. 479a–1).*

3 “(13) *MITIGATE.*—*The term ‘mitigate’ means to*  
 4 *avoid, minimize, rectify, reduce, or compensate for*  
 5 *adverse impacts to the applicant, contiguous jurisdic-*  
 6 *tions, and any other Indian tribe with governmental*  
 7 *functions, infrastructure, or services that would be di-*  
 8 *rectly, immediately, and significantly impacted by*  
 9 *the proposed acquisition.*

10 “(14) *NOTICE OF FINAL DECISION.*—*The term*  
 11 *‘notice of final decision’ means a notice of a final de-*  
 12 *cision to accept or deny an application to take land*  
 13 *into trust that—*

14 “(A) *is made available to the public; and*

15 “(B) *contains—*

16 “(i) *a legal description of the land;*

17 *and*

18 “(ii) *instructions on how to obtain a*  
 19 *copy of the final decision.*

20 “(15) *SECRETARY.*—*The term ‘Secretary’ means*  
 21 *the Secretary of the Interior.*

22 “(b) *DISCRETIONARY OFF-RESERVATION ACQUI-*  
 23 *TIONS.*—

24 “(1) *SUBMISSION.*—

1           “(A) *IN GENERAL.*—*An Indian tribe or in-*  
2           *dividual Indian seeking to have off-reservation*  
3           *fee or restricted land taken into trust for the ben-*  
4           *efit of that Indian tribe or individual Indian*  
5           *shall submit an application to the Secretary at*  
6           *such time, in such manner, and containing such*  
7           *information as this section and the Secretary re-*  
8           *quire.*

9           “(B) *PENDING APPLICATIONS.*—*On the re-*  
10          *quest of an Indian tribe or individual Indian*  
11          *whose application to take land into trust is*  
12          *pending as of the first date on which an applica-*  
13          *tion may be filed under the application process*  
14          *established by this section, the Secretary shall*  
15          *deem the Indian tribe or individual Indian an*  
16          *‘applicant’ under this section, subject to the con-*  
17          *dition that the Indian tribe or individual Indian*  
18          *supplements the pending application as nec-*  
19          *essary to comply with this subsection.*

20          “(2) *APPLICATION REQUIREMENTS.*—*The Sec-*  
21          *retary may approve complete applications described*  
22          *in paragraph (1), subject to the condition that the ap-*  
23          *plication includes—*

1           “(A) a written request for approval of a  
2 trust acquisition by the United States for the  
3 benefit of the applicant;

4           “(B) the legal name of the applicant, in-  
5 cluding, in the case of an applicant that is an  
6 Indian tribe, the tribal name of the applicant as  
7 the name appears in the list of recognized In-  
8 dian tribes published by the Secretary in the  
9 Federal Register pursuant to section 104 of the  
10 Federally Recognized Indian Tribe List Act of  
11 1994 (25 U.S.C. 479a-1);

12           “(C) a legal description of the land to be ac-  
13 quired;

14           “(D) a description of the need for the pro-  
15 posed acquisition of the property;

16           “(E) a description of the purpose for which  
17 the property is to be used;

18           “(F) a legal instrument to verify current  
19 ownership, such as a deed;

20           “(G) statutory authority for the proposed  
21 acquisition of the property;

22           “(H) a business plan for management of the  
23 land to be acquired, if the application is for  
24 business purposes; and

1                   “(I) *the location of the land to be acquired*  
2                   *relative to State and reservation boundaries.*

3                   “(c) *STATUTORY NOTICE AND COMMENT REQUIRE-*  
4 *MENTS.—*

5                   “(1) *INITIAL APPLICATIONS.—*

6                   “(A) *NOTICE.—*

7                   “(i) *IN GENERAL.—Not later than 30*  
8                   *days after the date on which the Secretary*  
9                   *receives an initial application, the Sec-*  
10                   *retary shall make that application, whether*  
11                   *complete or incomplete, available to the*  
12                   *public on the website of the Department,*  
13                   *subject to applicable Federal privacy laws.*

14                   “(ii) *ADDITIONAL NOTICE BY CER-*  
15                   *TIFIED MAIL.—Not later than 30 days after*  
16                   *the date on which the Secretary receives an*  
17                   *initial application, the Secretary shall pro-*  
18                   *vide by certified mail notice of the applica-*  
19                   *tion to contiguous jurisdictions.*

20                   “(B) *COMMENTS.—*

21                   “(i) *IN GENERAL.—Each contiguous*  
22                   *jurisdiction notified under subparagraph*  
23                   *(A)(ii) shall have not fewer than 60 days,*  
24                   *beginning on the date that the contiguous*

1           *jurisdiction receives the notice, to comment*  
2           *on that initial application.*

3           “(ii) *RESPONSE TO COMMENTS.—An*  
4           *applicant shall have not fewer than 60*  
5           *days, beginning on the date on which a con-*  
6           *tiguous jurisdiction submits a comment*  
7           *under clause (i), to respond to comments*  
8           *submitted on an initial application.*

9           “(2) *APPLICATION UPDATES, MODIFICATIONS,*  
10          *AND WITHDRAWALS.—*

11           “(A) *IN GENERAL.—If at any time an ap-*  
12           *plication is updated, modified, or withdrawn,*  
13           *not later than 10 days after the date on which*  
14           *the Secretary receives notice of that update,*  
15           *modification, or withdrawal, the Secretary shall*  
16           *make that information available to the public on*  
17           *the website of the Department, subject to any ap-*  
18           *plicable Federal privacy laws.*

19           “(B) *INCLUSION.—If an application has*  
20           *been updated or modified in any way, the notice*  
21           *described in subparagraph (A) shall include a*  
22           *description of the changes made and the updated*  
23           *or modified application, whether complete or in-*  
24           *complete, available on the website of the Depart-*



1           *ment, subject to any applicable Federal privacy*  
2           *laws.*

3           “(3) *COMPLETED APPLICATIONS.—*

4                 “(A) *NOTICE.—*

5                         “(i) *IN GENERAL.—Not later than 30*  
6                         *days after the date on which the Secretary*  
7                         *receives a completed application, the Sec-*  
8                         *retary shall make that application available*  
9                         *to the public on the website of the Depart-*  
10                        *ment, subject to any applicable Federal pri-*  
11                        *vacy laws.*

12                        “(ii) *ADDITIONAL NOTICE BY CER-*  
13                        *TIFIED MAIL.—Not later than 30 days after*  
14                        *the date on which the Secretary receives a*  
15                        *completed application, the Secretary shall*  
16                        *provide by certified mail notice of the ap-*  
17                        *plication to contiguous jurisdictions.*

18                        “(iii) *PUBLICATION IN FEDERAL REG-*  
19                        *ISTER.—Not later than 10 days after the*  
20                        *date on which the Secretary receives a com-*  
21                        *pleted application, the Secretary shall pub-*  
22                        *lish in the Federal Register notice of the*  
23                        *completed application.*

24                 “(B) *COMMENTS.—*

1           “(i) *IN GENERAL.*—*Each contiguous*  
2           *jurisdiction shall have not fewer than 60*  
3           *days, beginning on the date on which the*  
4           *contiguous jurisdiction receives notice under*  
5           *subparagraph (A)(ii), to comment on that*  
6           *completed application.*

7           “(ii) *RESPONSE TO COMMENTS.*—*An*  
8           *applicant shall have not fewer than 60*  
9           *days, beginning on the date on which a con-*  
10          *tiguous jurisdiction submits a comment*  
11          *under clause (i), to respond to comments*  
12          *submitted on a completed application.*

13          “(d) *ENCOURAGING LOCAL COOPERATION.*—

14               “(1) *IN GENERAL.*—*The Secretary shall encour-*  
15               *age, but not require, applicants to enter into coopera-*  
16               *tive agreements with contiguous jurisdictions.*

17               “(2) *COOPERATIVE AGREEMENTS.*—

18                       “(A) *IN GENERAL.*—*The Secretary shall*  
19                       *evaluate applications accompanied by 1 or more*  
20                       *cooperative agreements with contiguous jurisdic-*  
21                       *tions in accordance with the expedited process*  
22                       *described in subparagraph (C)(i).*

23                       “(B) *TERMS OF AGREEMENT.*—*A coopera-*  
24                       *tive agreement described in paragraph (1) may*  
25                       *include terms relating to mitigation, changes in*

1           *land use, dispute resolution, fees, and other terms*  
2           *determined by the parties to be appropriate.*

3           “(C)   *COOPERATIVE    AGREEMENT    SUB-*  
4           *MITTED.—*

5           “(i) *EXPEDITED PROCESS.—If an ap-*  
6           *plicant submits to the Secretary 1 or more*  
7           *cooperative agreements executed between the*  
8           *applicant and contiguous jurisdictions, the*  
9           *Secretary shall issue a final decision to ap-*  
10          *prove or deny a complete application not*  
11          *later than 120 days after the date on*  
12          *which—*

13                  “(I) *clear title to the land under*  
14                  *consideration is verified; and*

15                  “(II) *all applicable requirements*  
16                  *under Federal law and regulation are*  
17                  *satisfied.*

18           “(ii) *DEEMED APPROVED.—If the Sec-*  
19           *retary fails to issue a final decision by the*  
20           *dates described in clause (i), the application*  
21           *shall be deemed approved and treated as a*  
22           *final decision of the Department, subject to*  
23           *the condition that all requirements de-*  
24           *scribed in clause (i) are satisfied.*

1                   “(D) *COOPERATIVE AGREEMENT NOT SUB-*  
2                   *MITTED.—*

3                   “(i) *DETERMINATION OF MITIGA-*  
4                   *TION.—If an applicant does not submit to*  
5                   *the Secretary 1 or more cooperative agree-*  
6                   *ments executed between the applicant and*  
7                   *the contiguous jurisdictions, the Secretary*  
8                   *shall issue a written determination of miti-*  
9                   *gation by the date that is not later than 180*  
10                   *days after a complete application is re-*  
11                   *ceived by the Secretary.*

12                   “(ii) *CONSIDERATIONS FOR DETER-*  
13                   *MINATION.—In making a determination of*  
14                   *mitigation described in clause (i), the Sec-*  
15                   *retary shall consider—*

16                   “(I) *the anticipated impacts on*  
17                   *contiguous jurisdictions and the appli-*  
18                   *cant of approving or not approving an*  
19                   *application;*

20                   “(II) *any relevant comments and*  
21                   *responses to comments received by the*  
22                   *Secretary under this section; and*

23                   “(III) *whether the absence of a co-*  
24                   *operative agreement is attributable to*  
25                   *the failure of any contiguous jurisdic-*

1                    *tion to work in good faith to reach an*  
2                    *agreement with the applicant.*

3                    “(iii) *GOOD FAITH PROTECTION.—*  
4                    *Failure to submit a cooperative agreement*  
5                    *shall not prejudice an application if the*  
6                    *Secretary determines that the failure to sub-*  
7                    *mit is attributable to the failure of any con-*  
8                    *tiguous jurisdiction to work in good faith,*  
9                    *honestly and without fraud or unfair deal-*  
10                   *ing, to reach an agreement.*

11                   “(iv) *GUARANTEED REGULAR PROC-*  
12                   *ESSING.—In making a determination of*  
13                   *mitigation, the Secretary shall not unduly*  
14                   *delay the regular processing of an applica-*  
15                   *tion.*

16                   “(v) *NOTICE OF DETERMINATION.—The*  
17                   *Secretary shall provide by certified mail a*  
18                   *copy of the determination of mitigation de-*  
19                   *scribed under this subsection to the appli-*  
20                   *cant and contiguous jurisdictions not fewer*  
21                   *than 10 days after a determination of miti-*  
22                   *gation is issued.*

23                   “(3) *RECIPROCAL NOTICE AND COMMENT.—The*  
24                   *Secretary shall also encourage contiguous jurisdic-*  
25                   *tions to engage in local cooperation through recip-*

1        *rocal notice and comment procedures, particularly*  
2        *with regard to changes in land use.*

3        “(e) *FINAL DECISION ON APPLICATION.*—

4                “(1) *FINAL DECISION.*—*The Secretary shall issue*  
5        *a final decision to approve or deny a completed ap-*  
6        *plication after—*

7                “(A) *clear title to the land under consider-*  
8        *ation is verified;*

9                “(B) *all applicable requirements under Fed-*  
10        *eral law and regulation are satisfied; and*

11                “(C) *consideration of—*

12                “(i) *all application materials and in-*  
13        *formation submitted by the applicant under*  
14        *this section;*

15                “(ii) *all comments and responses to*  
16        *comments submitted to the Secretary under*  
17        *this section;*

18                “(iii) *a determination of mitigation*  
19        *issued under subsection (d), if any;*

20                “(iv) *relevant and material cooperative*  
21        *agreements between the applicant and con-*  
22        *tiguous jurisdictions, if any;*

23                “(v) *relevant and material cooperative*  
24        *agreements between the applicant and non-*  
25        *contiguous jurisdictions, if any; and*

1           “(vi) any other information the Sec-  
2           retary identifies as relevant and material to  
3           the final decision to approve or deny an ap-  
4           plication.

5           “(2) *TRANSPARENCY.*—

6           “(A) *NOTICE AND EXPLANATION OF FINAL*  
7           *DECISION.*—Not later than 10 days after a final  
8           decision to approve or deny an application is  
9           issued, the Secretary shall—

10           “(i) publish a notice of final decision  
11           and explanation of final decision on the  
12           website of the Department and in the Fed-  
13           eral Register; and

14           “(ii) provide by certified mail a copy  
15           of the notice of final decision and expla-  
16           nation of final decision.

17           “(B) *ADDITIONAL NOTICE.*—In addition to  
18           the notice required by subparagraph (A), the  
19           Secretary shall publish a notice of final decision  
20           in a newspaper of general circulation serving the  
21           affected area of the decision.

22           “(C) *INCLUSION.*—The requirements de-  
23           scribed in subparagraphs (A) and (B) apply to  
24           an application deemed approved under sub-  
25           section (d)(2)(C)(ii).

1       “(f) *SAFEGUARDING PROPRIETARY INFORMATION.*—  
2 *Nothing in this Act requires the publication or release of*  
3 *proprietary information submitted by an applicant under*  
4 *this section.*

5       “(g) *IMPLEMENTATION.*—

6           “(1) *CONSULTATION.*—*Not later than 90 days*  
7 *after the date of enactment of this section, the Sec-*  
8 *retary shall initiate consultation with Indian tribes*  
9 *regarding the implementation of this section.*

10          “(2) *SUMMARY.*—*Not later than 180 days after*  
11 *the date on which the consultation described in para-*  
12 *graph (1) is initiated, the Secretary shall issue a*  
13 *summary of the consultation and the summary shall*  
14 *be published in the Federal Register.*

15          “(3) *RULEMAKING.*—*Not later than 90 days*  
16 *after the date on which the summary described in*  
17 *paragraph (2) is published in the Federal Register,*  
18 *the Secretary shall, through a rulemaking under sec-*  
19 *tion 553 of title 5, United States Code, modify exist-*  
20 *ing regulations, guidance, rules, and policy state-*  
21 *ments, as necessary to carry out this section.*

22          “(h) *JUDICIAL REVIEW.*—*Interested parties may seek*  
23 *review of a final decision in a United States district court*  
24 *after exhausting all administrative remedies available*  
25 *under subchapter II of chapter 5, and chapter 7, of title*



1 5, *United States Code* (commonly known as the ‘*Adminis-*  
2 *trative Procedure Act*’).”.

3 **SEC. 4. EFFECT.**

4 (a) *OTHER LAND DETERMINATIONS*.—*Nothing in this*  
5 *Act (or an amendment made by this Act) impacts any other*  
6 *Federal Indian land determination.*

7 (b) *EFFECT ON OTHER LAWS*.—*Nothing in this Act*  
8 *(or the amendments made by this Act) affects—*

9 (1) *the application or effect of any Federal law*  
10 *other than the Act of June 18, 1934 (25 U.S.C. 461*  
11 *et seq.); or*

12 (2) *any limitation on the authority of the Sec-*  
13 *retary of the Interior under any Federal law or regu-*  
14 *lation other than the Act of June 18, 1934 (25 U.S.C.*  
15 *461 et seq.).*

Calendar No. 514

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

**S. 1879**

[Report No. 114-275]

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**A BILL**

To improve processes in the Department of the Interior, and for other purposes.

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JUNE 9, 2016

Reported with an amendment