

113TH CONGRESS
2D SESSION

S. 2040

To exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2014

Mr. CRAPO (for himself and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, 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 “Blackfoot River Land
5 Exchange Act of 2014”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the Shoshone-Bannock Tribes, a federally
2 recognized Indian tribe with tribal headquarters at
3 Fort Hall, Idaho—

4 (A) adopted a tribal constitution and by-
5 laws on March 31, 1936, that were approved by
6 the Secretary of the Interior on April 30, 1936,
7 pursuant to the Act of June 18, 1934 (25
8 U.S.C. 461 et seq.) (commonly known as the
9 “Indian Reorganization Act”);

10 (B) has entered into various treaties with
11 the United States, including the Second Treaty
12 of Fort Bridger, executed on July 3, 1868; and

13 (C) has maintained a continuous govern-
14 ment-to-government relationship with the
15 United States since the earliest years of the
16 Union;

17 (2)(A) in 1867, President Andrew Johnson des-
18 ignated by Executive order the Fort Hall Reserva-
19 tion for various bands of Shoshone and Bannock In-
20 dians;

21 (B) the Reservation is located near the cities of
22 Blackfoot and Pocatello in southeastern Idaho; and

23 (C) article 4 of the Second Treaty of Fort
24 Bridger secured the Reservation as a “permanent
25 home” for the Shoshone-Bannock Tribes;

1 (3)(A) according to the Executive order referred
2 to in paragraph (2)(A), the Blackfoot River, as the
3 river existed in its natural state—

4 (i) is the northern boundary of the Res-
5 ervation; and

6 (ii) flows in a westerly direction along that
7 northern boundary; and

8 (B) within the Reservation, land use in the
9 River watershed is dominated by—

10 (i) rangeland;

11 (ii) dry and irrigated farming; and

12 (iii) residential development;

13 (4)(A) in 1964, the Corps of Engineers com-
14 pleted a local flood protection project on the River—

15 (i) authorized by section 204 of the Flood
16 Control Act of 1950 (64 Stat. 170); and

17 (ii) sponsored by the Blackfoot River Flood
18 Control District No. 7;

19 (B) the project consisted of building levees, re-
20 placing irrigation diversion structures, replacing
21 bridges, and channel realignment; and

22 (C) the channel realignment portion of the
23 project severed various parcels of land located con-
24 tiguous to the River along the boundary of the Res-
25 ervation, resulting in Indian land being located

1 north of the Realigned River and non-Indian land
 2 being located south of the Realigned River;

3 (5) beginning in 1999, the Cadastral Survey
 4 Office of the Bureau of Land Management con-
 5 ducted surveys of—

6 (A) 25 parcels of Indian land; and

7 (B) 19 parcels of non-Indian land; and

8 (6) the enactment of this Act and separate
 9 agreements of the parties would represent a resolu-
 10 tion of the disputes described in subsection (b)(1)
 11 among—

12 (A) the Tribes;

13 (B) the allottees; and

14 (C) the non-Indian landowners.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to resolve the land ownership and land use
 17 disputes resulting from realignment of the River by
 18 the Corps of Engineers during calendar year 1964
 19 pursuant to the project described in subsection
 20 (a)(4)(A); and

21 (2) to achieve a final and fair solution to re-
 22 solve those disputes.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) ALLOTTEE.—The term “allottee” means an
2 heir of an original allottee of the Reservation who
3 owns an interest in a parcel of land that is—

4 (A) held in trust by the United States for
5 the benefit of the allottee; and

6 (B) located north of the Realigned River
7 within the exterior boundaries of the Reserva-
8 tion.

9 (2) BLACKFOOT RIVER FLOOD CONTROL DIS-
10 TRICT NO. 7.—The term “Blackfoot River Flood
11 Control District No. 7” means the governmental
12 subdivision in the State of Idaho, located at 75 East
13 Judicial, Blackfoot, Idaho, that—

14 (A) is responsible for maintenance and re-
15 pair of the Realigned River; and

16 (B) represents the non-Indian landowners
17 relating to the resolution of the disputes de-
18 scribed in section 2(b)(1) in accordance with
19 this Act.

20 (3) INDIAN LAND.—The term “Indian land”
21 means any parcel of land that is—

22 (A) held in trust by the United States for
23 the benefit of the Tribes or the allottees;

24 (B) located north of the Realigned River;
25 and

1 (C) identified in exhibit A of the survey of
2 the Bureau of Land Management entitled “Sur-
3 vey of the Blackfoot River of 2002 to 2005”,
4 which is located at—

5 (i) the Fort Hall Indian Agency office
6 of the Bureau of Indian Affairs; and

7 (ii) the Blackfoot River Flood Control
8 District No. 7.

9 (4) NON-INDIAN LAND.—The term “non-Indian
10 land” means any parcel of fee land that is—

11 (A) located south of the Realigned River;
12 and

13 (B) identified in exhibit B, which is located
14 at the areas described in clauses (i) and (ii) of
15 paragraph (3)(C).

16 (5) NON-INDIAN LANDOWNER.—The term
17 “non-Indian landowner” means any individual who
18 holds fee title to non-Indian land and is represented
19 by the Blackfoot River Flood Control District No. 7
20 for purposes of this Act.

21 (6) REALIGNED RIVER.—The term “Realigned
22 River” means that portion of the River that was re-
23 aligned by the Corps of Engineers during calendar
24 year 1964 pursuant to the project described in sec-
25 tion 2(a)(4)(A).

1 (7) RESERVATION.—The term “Reservation”
 2 means the Fort Hall Reservation established by Ex-
 3 ecutive order during calendar year 1867 and con-
 4 firmed by treaty during calendar year 1868.

5 (8) RIVER.—The term “River” means the
 6 Blackfoot River located in the State of Idaho.

7 (9) SECRETARY.—The term “Secretary” means
 8 the Secretary of the Interior.

9 (10) TRIBES.—The term “Tribes” means the
 10 Shoshone-Bannock Tribes.

11 **SEC. 4. RELEASE OF CLAIMS TO CERTAIN INDIAN AND NON-**
 12 **INDIAN OWNED LANDS.**

13 (a) RELEASE OF CLAIMS.—Effective on the date of
 14 enactment of this Act—

15 (1) all existing and future claims with respect
 16 to the Indian land and the non-Indian land and all
 17 right, title, and interest that the Tribes, allottees,
 18 non-Indian landowners, and the Blackfoot River
 19 Flood Control District No. 7 may have had to that
 20 land shall be extinguished;

21 (2) any interest of the Tribes, the allottees, or
 22 the United States, acting as trustee for the Tribes
 23 or allottees, in the Indian land shall be extinguished
 24 under section 2116 of the Revised Statutes (com-

1 monly known as the “Indian Trade and Intercourse
2 Act”) (25 U.S.C. 177); and

3 (3) to the extent any interest in non-Indian
4 land transferred into trust pursuant to section 5 vio-
5 lates section 2116 of the Revised Statutes (com-
6 monly known as the “Indian Trade and Intercourse
7 Act”) (25 U.S.C. 177), that transfer shall be valid,
8 subject to the condition that the transfer is con-
9 sistent with all other applicable Federal laws (includ-
10 ing regulations).

11 (b) DOCUMENTATION.—The Secretary may execute
12 and file any appropriate documents (including a plat or
13 map of the transferred Indian land) that are suitable for
14 filing with the Bingham County clerk or other appropriate
15 county official, as the Secretary determines necessary to
16 carry out this Act.

17 **SEC. 5. NON-INDIAN LAND TO BE PLACED INTO TRUST FOR**
18 **TRIBES.**

19 Effective on the date of enactment of this Act, the
20 non-Indian land shall be considered to be held in trust
21 by the United States for the benefit of the Tribes.

22 **SEC. 6. TRUST LAND TO BE CONVERTED TO FEE LAND.**

23 (a) IN GENERAL.—As soon as practicable after the
24 date of enactment of this Act, the Secretary shall transfer
25 the Indian land to the Blackfoot River Flood Control Dis-

1 trict No. 7 for use or sale in accordance with subsection
2 (b).

3 (b) USE OF LAND.—

4 (1) IN GENERAL.—The Blackfoot River Flood
5 Control District No. 7 shall use any proceeds from
6 the sale of land described in subsection (a) according
7 to the following priorities:

8 (A) To compensate, at fair market value,
9 each non-Indian landowner for the net loss of
10 land to that non-Indian landowner resulting
11 from the implementation of this Act.

12 (B) To compensate the Blackfoot River
13 Flood Control District No. 7 for any adminis-
14 trative or other expenses relating to carrying
15 out this Act.

16 (2) REMAINING LAND.—If any land remains to
17 be conveyed or proceeds remain after the sale of the
18 land, the Blackfoot River Flood Control District No.
19 7 may dispose of that remaining land or proceeds as
20 the Blackfoot River Flood Control District No. 7 de-
21 termines to be appropriate.

22 **SEC. 7. EFFECT ON ORIGINAL RESERVATION BOUNDARY.**

23 Nothing in this Act affects the original boundary of
24 the Reservation, as established by Executive order during

1 calendar year 1867 and confirmed by treaty during cal-
2 endar year 1868.

3 **SEC. 8. EFFECT ON TRIBAL WATER RIGHTS.**

4 Nothing in this Act extinguishes or conveys any water
5 right of the Tribes, as established in the agreement enti-
6 tled “1990 Fort Hall Indian Water Rights Agreement”
7 and ratified by section 4 of the Fort Hall Indian Water
8 Rights Act of 1990 (Public Law 101–602; 104 Stat.
9 3060).

10 **SEC. 9. DISCLAIMERS REGARDING CLAIMS.**

11 Nothing in this Act—

12 (1) affects in any manner the sovereign claim
13 of the State of Idaho to title in and to the beds and
14 banks of the River under the equal footing doctrine
15 of the Constitution of the United States;

16 (2) affects any action by the State of Idaho to
17 establish the title described in paragraph (1) under
18 section 2409a of title 28, United States Code (com-
19 monly known as the “Quiet Title Act”);

20 (3) affects the ability of the Tribes or the
21 United States to claim ownership of the beds and
22 banks of the River; or

23 (4) extinguishes or conveys any water rights of
24 non-Indian landowners or the claims of those land-

1 owners to water rights in the Snake River Basin Ad-
2 judication.

○