

Subcommittee on Indian, Insular and Alaska Native Affairs

Don Young, Chairman

Hearing Memorandum

February 22, 2016

To: All Subcommittee on Indian, Insular and Alaska Native Affairs Members

From: Majority Committee Staff, Subcommittee on Indian, Insular and Alaska Native Affairs (x6-9725)

Hearing: Legislative hearing on H.R. 3599 (Rep. Chuck Fleischmann), To take certain Federal lands in Tennessee into trust for the benefit of the Eastern Band of Cherokee Indians, and for other purposes. *“Eastern Band Cherokee Historic Lands Reacquisition Act”*
Wednesday, February 24, 2016, at 2:30 p.m. in 1324 Longworth HOB

H.R. 3599 (Rep. Chuck Fleischmann), *“Eastern Band Cherokee Historic Lands Reacquisition Act”*

Summary of the bill

H.R. 3599 was introduced by Rep. Charles “Chuck” Fleischmann on September 24, 2015. The bill would place approximately 96 acres of Tennessee Valley Authority (“TVA”) land in Monroe County, Tennessee, on the shores of Little Tennessee River/Tellico Reservoir into trust for the benefit of the Eastern Band of Cherokee Indians (“Tribe”). Additionally, the bill places two permanent easements over TVA land to be held in trust. Further, the Tribe may identify additional future TVA-managed lands to be placed in trust which hold significant historical and cultural importance to the Tribe. Gaming pursuant to the Indian Gaming Regulatory Act¹ would be prohibited on the lands placed into trust. The maps referenced in the bill are attached to this memo.

Cosponsors

Rep. Mark Meadows (R-NC)

Witnesses

The Honorable Sally Jewell, Secretary (Invited)
U.S. Department of the Interior
Washington, D.C.

¹ 25 U.S.C. 2701 et seq.

The Honorable Patrick Lambert, Principal Chief
Eastern Band of Cherokee Indians
Cherokee, NC

Mr. William “Bill” Johnson, President & CEO (Invited)
Tennessee Valley Authority
Knoxville, TN

Background

The Eastern Band of Cherokee Indians is a relatively small Tribe located in the Great Smoky Mountains of westernmost North Carolina. The Tribe’s reservation covers over 51,000 acres which is known as the Qualla Boundary and is headquartered in Cherokee, North Carolina.²

After the completion of the Tellico Dam in Loudon County, Tennessee in 1979, the Tribe continued in active communication with TVA on any areas impacted that the Tribe believed was of historical significance to the Tribe. The Tribe currently manages most of these properties as part of two permanent easements granted to the Tribe in 1984 and 1986. These easements were a result of informal agreements with TVA to address the Tribe’s objections to TVA’s construction of the Tellico Dam and Reservoir. Currently, the Tribe operates the Sequoyah Museum on one easement with TVA.

The Tribe believes that the original intent of both the Eastern Band leadership and TVA was to have the properties permanently transferred into trust status for the Tribe, as contemplated by the 1984-86 easements.

Section-by-Section Analysis of H.R. 3599

Sec. 1. Short Title. Provides that the short title of the bill is the “Eastern Band Cherokee Historic Lands Reacquisition Act”.

Sec. 2. Land Taken into trust for the Eastern Band of Cherokee Indians.

Subsection (a). Provides that subject to pre-existing rights-of-way or easements by third parties, three federal properties: Sequoyah Museum Property, Support Property, and the Chota Memorial property and Tanasi Memorial property as show on maps one through three referenced, totaling 76.1 acres shall be placed into trust for the Tribe.

² Tiller’s Guide to Indian Country, compiled by Veronica E. Valarde Tiller at 789 (2005).

Subsection (b). Provides that any physical property, including improvements to or on the land under section (a) will be the property of the Tribe.

Subsection (c). Provides that the Tribe may identify future TVA managed lands on or above the 820 foot contour elevation, to be placed into trust if an agreement is reached between the Secretary of the Interior, TVA and the Tribe.

Subsection (d). Provides that the Secretary of the Interior, TVA and Tribe shall submit any revisions to any maps cited under the bill described in section one of this act to the respective Congressional committees of jurisdiction.

Subsection (f). Provides that lands taken into trust under this section are bound by conditions set forth in Section 5 of the bill.

Sec. 3. Permanent Easements Taken into Trust for the Eastern Band of Cherokee Indians.

Subsection (a). Provides that two easements held by the Tribe and identified on “Map 3” shall be placed into trust for the Tribe.

Subsection (b). Provides that the Tribe may identify future easements below the 820 foot contour elevation, to be placed into trust if an agreement is reached between the Secretary of the Interior, TVA and the Tribe

Subsection (c). Provides that the Secretary of the Interior, TVA and Tribe shall submit any revisions to any maps regarding permanent easements under this section to the respective Congressional committees of jurisdiction.

Subsection (d). Provides that lands taken into trust under this section are bound by conditions set forth in Section 5 of the bill.

Sec. 4. Trust Administration and Purposes.

Subsection (b). Provides that all lands taken into trust, except easements, shall be used primarily for memorializing and interpreting history of the Tribe.

Subsection (c). The support property identified under the bill shall be limited to uses such as: classrooms and conference rooms; cultural interpretation for education programs; and temporary housing for guests.

Subsection (d). Lands placed into trust which are easements shall only be used for recreational trails.

Sec. 5. Use Rights, Conditions. Provides that the lands placed into trust under this Act may not interfere with normal operations of the TVA and grants that TVA may be provided adequate access for carrying out TVA activities. Further this subsection provides that TVA shall not be liable for any loss or damage resulting from normal activities.

Sec. 6. Lands Subject to the Act. Provides clarification to the term “lands subject to this Act” used in the bill to include land and easements described to be placed into trust for the Tribe.

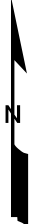
Sec. 7. Gaming Prohibition. Provides that class II and III pursuant to the Indian Gaming Regulatory Act is prohibited.




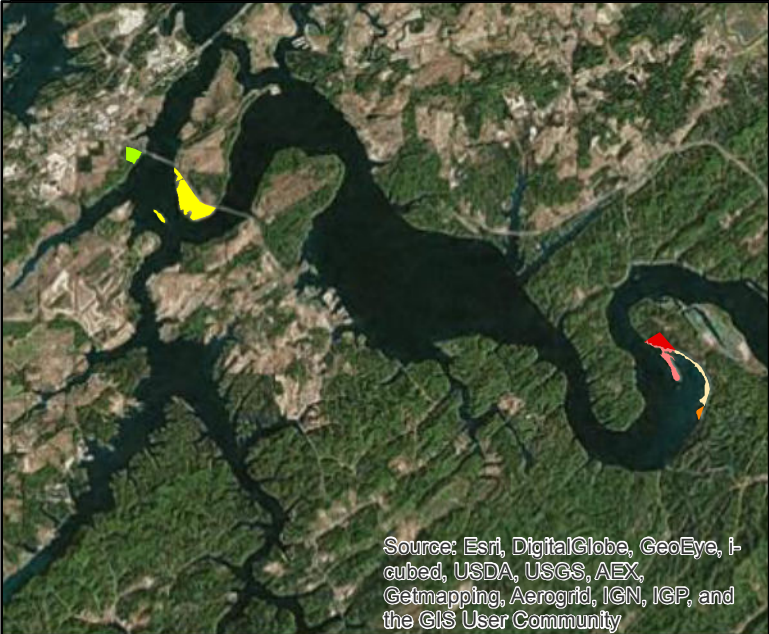
Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community

April 30, 2015

Eastern Band of Cherokee Historic Lands Reacquisition Map 1



 Sequoyah Museum Parcels



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community


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Eastern Band of Cherokee Historic Lands Reacquisition Map 2



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community



 Support Parcel

0 250 500 750 1,000
 Feet



Chota Memorial 1

Chota-Tanasi Trail

Chota Memorial 2





Tellico Lake

Tanasi Memorial

Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community

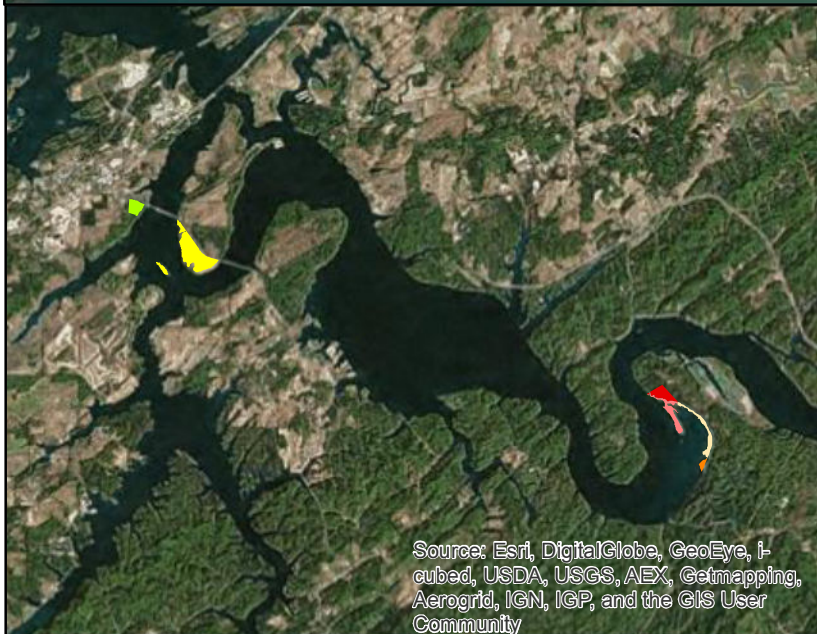
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Eastern Band of Cherokee Historic Lands Reacquisition Map 3

-  Chota Memorial 1
-  Chota Memorial 2
-  Chota-Tanasi Trail
-  Tanasi Memorial



0 250 500 750 1,000
Feet



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community