

January 31, 2020

TO: Republican Members, Subcommittee for Indigenous Peoples of the United States  
FROM: Republican Committee Staff (Chris Fluhr and Ken Degenfelder x69725)

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The Subcommittee for Indigenous Peoples of the United States will hold a hearing on four bills on Wednesday, February 5, 2019, at 2pm in 1324 Longworth HOB.

**I. WITNESSES**

- **Mr. Darryl LaCounte**, Director, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, DC (H.R. 4059, H.R. 4888, H.R. 5153)
- **Mr. Randy Grinnell**, Deputy Director for Management Operations, Indian Health Service, U.S. Department of Health and Human Services, Rockville, MD (H.R. 4495)
- **Ms. Anna Scrimenti**, Health Policy Analyst, California Rural Indian Health Board, Inc., Roseville, CA (H.R. 4495)
- **The Honorable Jeff Grubbe**, Chairman, Agua Caliente Band of Cahuilla Indians, Palm Springs, CA (H.R. 4059)
- **The Honorable Cheryle Kennedy**, Chairwoman, Confederated Tribes of the Grand Ronde, Grand Ronde, OR (H.R. 4888)
- **Mr. Ervin Calson**, Board President, Intertribal Buffalo Council, Rapid City SD (H.R. 5153)
- **Ms. Melissa Berns**, Board Member, Old Harbor Native Corporation, Old Harbor, AK (H.R. 5153)  
*[Republican Witness]*

**II. BACKGROUND**

[H.R. 4059](#) (Ruiz D-CA), To take certain lands in California into trust for the benefit of the Agua Caliente Band of Cahuilla Indians, and for other purposes.

H.R. 4059 would place approximately 2,560 acres of land owned by the Agua Caliente Tribe into trust within their reservation. These lands were acquired through a land exchange with the Bureau of Land Management in 2018. A map of the lands taken into trust are depicted in purple on the attached map. The 2,560 acres of land are contiguous to currently owned tribal land.

The Agua Caliente Band of Cahuilla Indians reservation is located approximately 100 miles southeast of Los Angeles, California, in and around Palm Springs, with nearly 11,000 acres of the 31,000-acre reservation within the city limits of Palm Springs. Originally established in 1876 by President Grant, the Tribe's reservation only encompassed 1.5 acres. Other various Acts of Congress including the General Allotment Act of 1887 and the Mission Indian Relief Act of 1891 expanded tribal members' land ownership, and today the reservation is approximately 31,000 acres.

The Tribe operates two casinos, with a third currently under construction, pursuant to the Indian Gaming Regulatory Act<sup>1</sup>, one in downtown Palm Springs and one on the east side of Palm Springs off Interstate 10.

The Tribe has not stated whether it has applied to have the 2,560 acres affected by the bill placed into trust through the Department of Interior's Part 25 CFR 151 process or the Tribe's intended purpose or need for these lands. Congressional land into trust action would circumvent the National Environmental Policy Act review process. Moreover, once the lands are placed into trust, they will no longer be subject to State or local taxation or jurisdiction.

[H.R. 4495](#) (Ruiz D-CA), To authorize the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, to acquire private land to facilitate access to the Desert Sage Youth Wellness Center in Hemet, California, and for other purposes

H.R. 4495 would ensure the Indian Health Service (IHS) has the authority to purchase, at fair market value from willing sellers, a half-mile dirt and gravel access road leading to the Desert Sage Youth Wellness Center. According to the bill sponsor, the access road crosses the property of two individual landowners, the Genus property and the Moon Valley Nursery property. Once title is acquired by the IHS, the agency will construct a paved road and eventually relinquish ownership and management of the road to Riverside County, California.

In 1992, Congress amended the Indian Healthcare Improvement Act authorizing the IHS to construct and operate two Youth Treatment Facilities in California.<sup>2</sup> Previously, Indian youth in California relied on out-of-state facilities for treatment. In March 2016, IHS officially opened California's first youth regional treatment center, Desert Sage Youth Wellness Center in Hemet, California. This new facility was designed as a co-ed inpatient facility to serve Indian youth aged 12-17 with substance abuse and co-occurring disorders. The facility is located approximately a half mile from a paved county road. According to the Indian Health Service, the half mile access road was granted under an easement from two landowners at the time of construction of the facility.

According to the IHS, during the construction of the facility, ownership of a portion of the land that encompassed the road changed. The new owner had expressed concerns regarding the road crossing his land. The IHS attempted to work with the landowner and possibly buy the land on which the road is situated. However, when construction was completed, IHS claimed it no longer had authority to purchase any further land. The bill sponsor has also indicated that IHS has estimated that the land title appraisal to be \$16,000 for Genus property and \$21,000 for Moon Valley Nursery Property; however, it is not clear if these amounts are fair market value.

Once the IHS acquires ownership of the land, the bill mandates that it construct a paved road. Once the road is completed, the IHS will enter into an agreement to turn ownership over to Riverside County to maintain and manage the road. Neither Riverside County nor the affected landowners were invited to testify at the hearing.

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<sup>1</sup> 25 USC 2701 et seq.

<sup>2</sup> 25 USC 1165g (b).



Source: bill sponsor

[H.R. 4888](#) (Schrader D-OR), To amend the Grand Ronde Reservation Act, and for other purposes.

H.R. 4888 would amend the Grand Ronde Reservation Act to reflect that the Grand Ronde Tribe’s extinguishment of land claims against the United States only applies to an 84-acre parcel of land, known as the Thompson Strip. The bill also would add a gaming prohibition to any future land claims settlements.

The Confederated Tribes of the Grand Ronde Community of Oregon were among several tribes in Western Oregon that treated with the United States in the 1850s. In 1857, President James Buchanan established the Grand Ronde Reservation.<sup>3</sup> The reservation was more than 60,000 acres and today the Grand Ronde are treated by the federal government as a single tribe for federal purposes such as the delivery of services and benefits.

In 1988, Congress enacted the Grand Ronde Reservation Act.<sup>4</sup> This Act and subsequent Acts created a reservation for the Tribe mostly within the boundaries of the former 1857 Grand Ronde Reservation in Polk and Yamhill Counties. Today, the Tribe has a total of 10,311 acres of trust land. According to the Tribe, all but 259 acres of these lands are forested, and the Tribe is actively engaged in timber management. The non-forested trust parcels host tribal buildings and housing, a casino, and other infrastructure.

On October 31, 1988, the Bureau of Land Management (BLM) discovered that several surveying errors had been made along the southeast boundary of the Tribe’s reservation. On the realization of the error, the BLM contacted the Tribe to correct the situation. In 1994, the Tribe and BLM agreed to a land transfer, which Congress included as part of a larger Indian technical corrections bill, Public Law 103-435.<sup>5</sup>

While the Tribe received compensatory lands under this law, it was determined that the “extinguishment of claims” phrase used in the bill included all and potential future land claims within the State of Oregon, not just on the 84-acre Thompson strip parcel. The Tribe contends that this was done in error and not intended to bar it from other potential land claims. The bill would amend current law to reflect that the Tribe is only barred from bringing a future land claim on the 84-acre Thompson Strip parcel.

[H.R. 5153](#) (Don Young R-AK), To assist Tribal governments in the management of buffalo and buffalo habitat and for the reestablishment of buffalo on Indian lands. “*Indian Buffalo Management Act*”

H.R. 5153 would authorize the Department of the Interior to establish a permanent program to develop and promote the capacity of Indian tribes and tribal organizations to manage buffalo and buffalo habitat. The

<sup>3</sup> Executive Order Issued by James Buchanan (June 30, 1857).

<sup>4</sup> Public Law 100-425, 102 Stat. 1594., as amended by Pub. L. No. 100-581, Pub. L. No. 101-301, Pub. L. No. 102-497, Pub. L. No. 103-263, Pub. L. No. 103-435, and Pub. L. No. 105-256.

<sup>5</sup> P.L. 103-435; 25 USC 713f note, subsection d.

Department of the Interior would do this through contracts, cooperative agreements and grants to Indian tribes and tribal organizations.

The American buffalo (or bison) has long held importance to the United States and was officially named the national mammal in 2016.<sup>6</sup> American Indian and Alaska Natives have also had a long standing cultural and spiritual relationship with buffalo which continues to this day.<sup>7</sup> Indian tribes used the buffalo for subsistence purposes for thousands of years, incorporating it into everyday diets and livelihoods. By the end of the 19<sup>th</sup> century, however, buffalo were near extinction. As a result, conservation efforts were enacted to restore buffalo numbers. Over the last 100 years buffalo have slowly returned and in 2017, the U.S. Department of Agriculture estimated that there were approximately 200,000 buffalo in the United States.<sup>8</sup>

While there are several private ranches with buffalo herds, Indian tribes have with good success seen herds grow for many years. In 1991, several tribes with buffalo herds joined together forming the Intertribal Buffalo Council (ITBC).<sup>9</sup> In 2009, the ITBC received a federal charter pursuant to section 17 of the Indian Reorganization Act to aid tribes in the restoration of buffalo on tribal lands.<sup>10</sup> Today, the ITBC is comprised of 68 member Indian tribes and Alaska Natives with 55 buffalo herds in 19 States with the mission of restoring buffalo to Indian Country. Under the section 17 designation, the ITBC is a corporation owned by an Indian tribe and can receive federal funding.

In fiscal year (FY) 2019, ITBC received approximately \$1.4 million through the Bureau of Indian Affairs, Natural Resources, Tribal Management/Development Projects line item. This available funding is subject to fluctuation and it is not dedicated to buffalo management on tribal lands. The ITBC has estimated its approximate unmet needs in FY19 to be in excess of \$12 million/year.

H.R. 5153 would establish a dedicated line item, authorized at \$14 million, within the Department of the Interior which could go directly to an Indian tribe or an organization. Through contracts, cooperative agreements and grants, the program would plan, conduct or implement buffalo restoration programs; plan and execute commercial activities related to buffalo products; and carry out other activities related to buffalo restoration and management. Last, the bill authorizes the Secretary of the Interior to enter into agreements with Indian tribes or tribal organizations to dispose of surplus buffalo on federal land and transfer those buffalo to Indian land.

### **III. COSTS**

Unknown.

### **IV. ADMINISTRATION POSITIONS**

Unknown.

### **V. CURRENT LAW AS AMENDED BY EACH OF THE BILLS (RAMSEYERS)**

#### **Showing Current Law as Amended by H.R. 4888**

[text to be added highlighted in yellow; text to be deleted bracketed and highlighted in gray]

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<sup>6</sup> P.L. 114-152.

<sup>7</sup> Intertribal Buffalo Council testimony before H. Interior Appropriations Scmte. March 2019.

<sup>8</sup>[https://www.nass.usda.gov/Publications/AgCensus/2017/Full\\_Report/Volume\\_1,\\_Chapter\\_2\\_US\\_State\\_Level/st99\\_2\\_0023\\_0023.pdf](https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_2_US_State_Level/st99_2_0023_0023.pdf)

<sup>9</sup> <https://itbcbuffalonation.org/who-we-are/history/>

<sup>10</sup> 25 USC 477.

**Grand Ronde Reservation Act (Public Law 100-425)**

SECTION 1. ESTABLISHMENT OF RESERVATION.

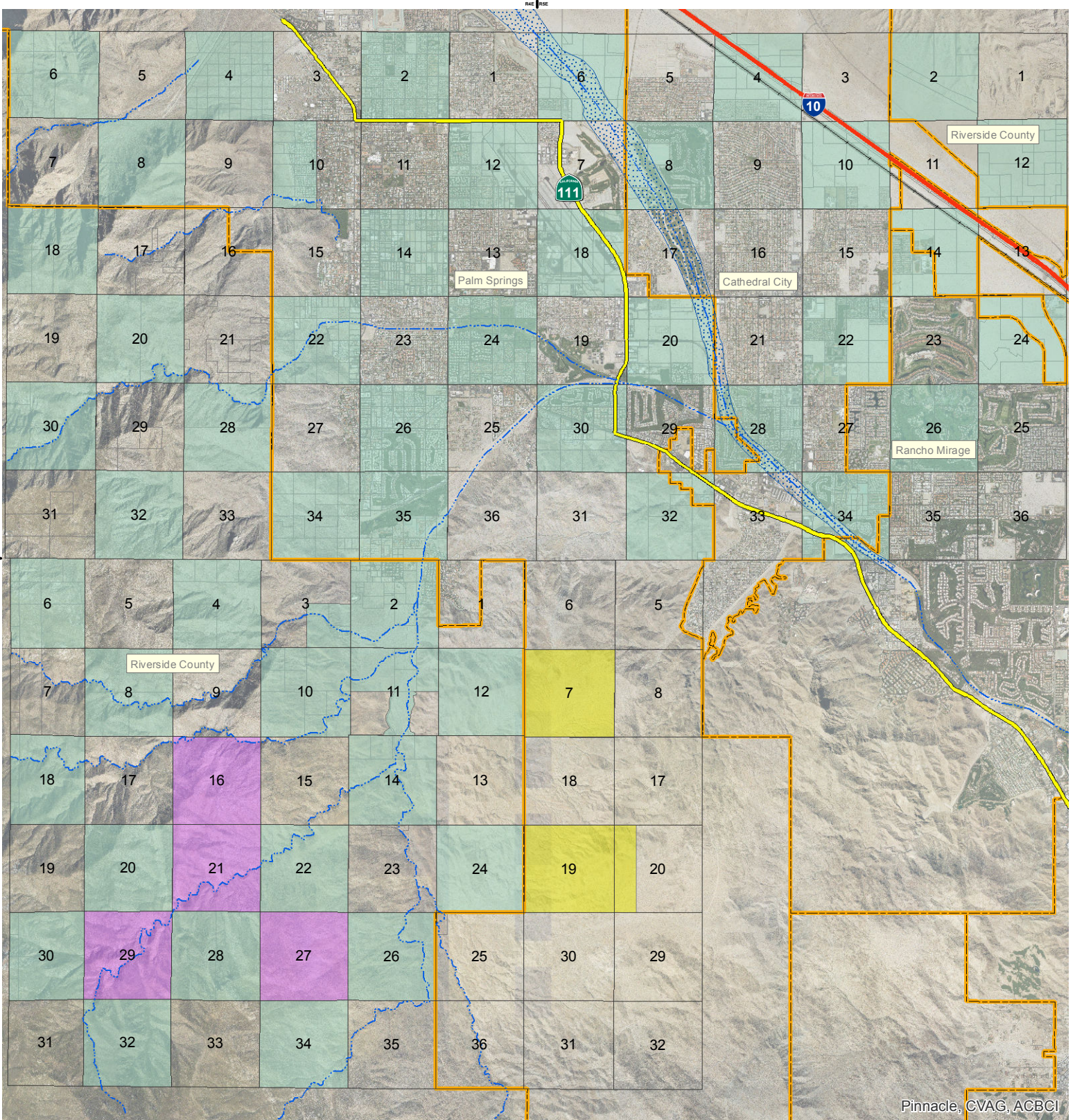
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(d) Claims Extinguished; Liability.--

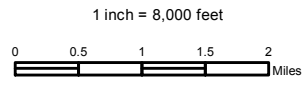
(1) Claims extinguished.--All claims to [lands within the State of Oregon] the 84 acres known as the Thompson Strip based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any transfers pursuant to the Act of April 28, 1904 (Chap. 1820; 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Act of July 22, 1790, commonly known as the `Trade and Intercourse Act of 1790' (1 Stat. 137, chapter 33, section 4)).

(2) GAMING PROHIBITION.—Any real property obtained by the Tribes as part of a land claim settlement approved by the United States shall not be eligible, or used, for any class II gaming or class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701, et seq.) (as those terms are defined in section 4 of that Act (25 U.S.C. 2703)).

[(2)] (3) Liability.--The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.



# ACBCI/BLM LAND EXCHANGE



Agua Caliente Band of Cahuilla Indians  
 5401 Dinah Shore Dr. Palm Springs CA, 92264  
 Geospatial Information Services  
 (760) 883 - 1911/Fax (760) 833-1937

Boundary data in this map is for representation purposes only. It does not cover questions of location which a survey map may disclose.

- ACBCI Exchange Lands (1,471.24 Acres)
- BLM Exchange Lands (2,560 Acres)
- Agua Caliente Indian Reservation
- 00 Township Sections
- Political Jurisdictions