



To: House Committee on Natural Resources Republican Members
From: Subcommittee for Indigenous Peoples Republican Staff; Ken Degenfelder (Ken.Degenfelder@mail.house.gov) and Jocelyn Broman (Jocelyn.Broman@mail.house.gov)
Date: September 12, 2022
Subject: Hybrid Legislative Hearing on seven bills.

The Subcommittee for Indigenous Peoples will hold a hybrid legislative hearing on seven bills: H.R. 6032 (Rep. Huffman), *the Katimiûn and Ameekyáaraam Sacred Lands Act*; H.R. 6964 (Rep. Strickland), *to authorize leases of up to 99 years for lands held in trust for the Confederated Tribes of the Chehalis Reservation*; Discussion Draft ANS to H.R. 7581 (Rep. Huffman), *the Yurok Lands Act of 2022*; H.R. 8115 (Rep. LaMalfa), *the Recreation and Public Purposes Tribal Parity Act*; H.R. 8286 (Rep. Kilmer), *To take certain Federal land in the State of Washington into trust for the Lower Elwha Klallam Tribe, and for other purposes*; H.R. 8380 (Rep. Garcia), *Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act of 2022*; and H.R. 8387 (Rep. Newhouse), *the Parity for Tribal Law Enforcement Act* on **Wednesday, September 14, 2022, at 1:00 p.m.** in 1324 Longworth House Office Building and via Cisco WebEx.

Republican Members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Jocelyn Broman (Jocelyn.broman@mail.house.gov) no later than **4:30 p.m. on Tuesday, September 13, 2022**, if their Member intends to participate in person in the hearing room or remotely via his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- H.R. 6032 would place approximately 1,031 acres of federal land located in Siskiyou and Humboldt Counties, California, into trust for the Karuk tribe.
- H.R. 6964 would amend current law to authorize the Confederated Tribes of the Chehalis Reservation to lease its trust land for a period of up to 99 years.

- Discussion Draft ANS to H.R. 7581 would place approximately 1,229 acres of U.S. Forest Service land in the Yurok Experimental Forest and Six Rivers National Forest into trust for the Yurok tribe to be managed for conservation and research purposes.
- H.R. 8115 would amend current law to add Indian tribes to the list of entities eligible to lease or purchase public lands from the Department of the Interior (DOI) pursuant to the *Recreation and Public Purposes Act* (R&PP).
- H.R. 8286 would place approximately 1,082 acres of federal land into trust Lower Elwha Klallam Tribe.
- H.R. 8380 would settle purported claims by the Prairie Band Potawatomi Nation relating to the Shab-eh-nay Band Reservation in northern Illinois, place 130 acres of land into restricted fee status for the tribe and authorize appropriations of \$10 million for partial payment to settle the land claim.
- H.R. 8387 would authorize tribal law enforcement officers acting under certain contracts or compacts, to be considered federal law enforcement officers to enforce federal law and the bill would also treat tribal law enforcement officers as federal law enforcement officers for purposes of certain other federal laws, including for benefits applicable to federal law enforcement officers for injury and death, retirement, and for pension benefits.

II. WITNESSES

- **The Hon. Jarred-Michael Erickson**, Chairman, Confederated Tribes of the Colville Reservation, Nespelem, WA [*Republican Witness*] (H.R. 8387)
- **The Hon. Arian Hart**, Chairman, Susanville Indian Rancheria, Susanville, CA [*Republican Witness*] (H.R. 8115)
- **The Hon. Bryan Newland**, Assistant Secretary—Indian Affairs, U.S. Department of the Interior, Washington, D.C. (all bills)
- **The Hon. Russell Attebery**, Chairman, Karuk tribe, Happy Camp, CA (H.R. 6032)
- **The Hon. Harry Pickernell, Sr.**, Chairman, Confederated Tribes of the Chehalis Reservation, Oakville, WA (H.R. 6964)
- **The Hon. Joe James**, Chairman, Yurok Tribe, Klamath, CA (Discussion Draft ANS to H.R. 7581)
- **The Hon. Joseph Rupnick**, Chairman, Prairie Band Potawatomi Nation, Mayetta, KS (H.R. 8380)

- **The Hon. Franes G. Charles**, Chairwoman, Lower Elwha Klallam Tribe, Port Angeles, WA (H.R. 8286)

III. BACKGROUND

[H.R. 6032, the Katimiîn and Aamekyáaraam Sacred Lands Act \(Rep. Huffman\)](#)

The Karuk Tribe is one of the largest tribes in California with approximately 3,300 enrolled tribal members.¹ They are located in northwestern California in Humboldt and Siskiyou counties. The tribe has several tracts of land held in trust with tribal communities in the Orleans, Happy Camp, and Yreka areas.² There is no official reservation for the tribe.³

H.R. 6032 would transfer approximately 1,031 acres of U.S. Forest Service (USFS) land where the Salmon River meets the Klamath River in Siskiyou and Humboldt Counties, California, from the USFS to the Department of the Interior (DOI) and direct the Secretary of the Interior to take that land into trust for the benefit of the Karuk Tribe. The bill would require that the land taken into trust will only be used for traditional and customary uses for the benefit of the Karuk Tribe. The bill would not permit gaming pursuant to the *Indian Gaming Regulatory Act*⁴ (IGRA) on the land. The bill would require that the land held in trust shall not affect the status or administration of this section of the Klamath River as a wild and scenic river.

The Karuk tribe uses these lands, which are known by the tribe as the Katimiîn [*kata-meen*] and Aamekyáaraam [*a-meekey-arum*] areas, for the tribe's annual world renewal ceremonies.⁵ The land is sacred to the tribe and is considered the center of the world in Karuk religious belief. The Karuk Tribe believes this area is essential to inter-generational teaching and learning needed to ensure future generations of Karuk people know and understand Karuk culture and customs.⁶

Currently, the tribe has a Special Use Permit with the USFS that allows the tribe access to the grounds for their ceremonies and closes the river during certain times in the summer to facilitate these ceremonies.⁷ However, there have been public intrusions during the ceremonies from some individuals rafting the river.⁸ The Executive Director of the tribe

¹ "Karuk," *Tiller's Guide to Indian Country*, Edited and Compiled by Veronica E. Velarde Tiller (2015).

² *Id.*

³ Interview with Josh Saxon, Executive Director of the Karuk Tribe, on The Jefferson Exchange, *available at*: <https://www.ijpr.org/show/the-jefferson-exchange/2022-07-06/thu-8-am-bill-in-congress-proposes-transfer-of-sacred-lands-to-karuk-tribe>

⁴ 25 USC 2701 et seq.

⁵ *Id.*

⁶ Interview with Josh Saxon, The Jefferson Exchange, *see also* Kimberly Wear, "Preserving A Way of Life" *North Coast Journal* Nov. 25, 2021, *available at*, <https://www.northcoastjournal.com/humboldt/preserving-a-way-of-life/Content?oid=22096007>

⁷ US Forest Service, "Traditional Karuk Ceremonial Activity on the Klamath River" *available at*, https://www.fs.usda.gov/detail/klamath/workingtogether/tribalrelations/?cid=fsm8_049849

⁸ *Id.*

has stated that access to the area would still include USFS management and access to the Wild and Scenic River, and the usual river closures would still occur.⁹

A map of the land to be placed into trust can be viewed [here](#).

Issues and Concerns

Democrat staff has indicated that the USFS was not invited to testify even though the lands affected by this bill are managed by that agency. While a witness for the Bureau of Indian Affairs will testify, it is concerning that someone from USFS has not been invited. It is unclear whether this indicates a lack of support or other issue.

H.R. 6964, To authorize leases of up to 99 years for lands held in trust for the Confederated Tribes of the Chehalis Reservation (Rep. Strickland)

In 1834, with the enactment of the *Non-intercourse Act*,¹⁰ land transactions with Indians were prohibited unless authorized by Congress. Over time, such restrictions came to apply primarily to lands held in trust by the United States for the benefit of individual Indians or Indian tribes, and to lands title to which is subject to a restriction against alienation.

In 1955, Congress passed what is commonly known as the *Long-Term Leasing Act*¹¹ (LTLA) to supersede the *Non-Intercourse Act*. The LTLA generally authorizes any Indian lands held in trust or land subject to a restriction against alienation, to be leased by the Indian owner, subject to the approval of the Secretary of the Interior, for “public, religious, educational, recreational, residential, or business purposes...” for “a term of not to exceed twenty-five years” except for grazing purposes, in which case the term shall not exceed ten years.¹² The original 1955 Act did however, specify that non-grazing leases may be renewed up to one additional term of 25 years, for a total of 50 years.¹³

Congress has amended the LTLA more than 50 times to adjust the terms and conditions of leases of Indian lands, and to authorize specific Indian land or tribes to lease land for a term of up to 99 years, subject to approval of the Secretary. Relevant to H.R. 6964, the LTLA was amended in 2015 and 2018 to provide additional leasing authority for the Navajo Nation and Pueblo¹⁴ of Santa Clara¹⁵ for terms up to 99 years.

H.R. 6964 would amend the LTLA to authorize the Confederated Tribes of the Chehalis Reservation to lease its trust land for terms up to 99 years. According to the tribe, its economic development activities fund its government programs and helps to diversify its economic interests. The tribe is interested in developing American supply chain

⁹ The Jefferson Exchange. Interview with Josh Saxon. July 2022. <https://www.ijpr.org/show/the-jefferson-exchange/2022-07-06/thu-8-am-bill-in-congress-proposes-transfer-of-sacred-lands-to-karuk-tribe>

¹⁰ 25 U.S.C. §177.

¹¹ 25 USC 415

¹² P.L. 255. Ch. 615, Sec. 1, 69 Stat. 539.

¹³ *Id.*

¹⁴ P.L. 115-325.

¹⁵ P.L. 115-227.

infrastructure, by making improvements to an existing assemblage of land suitable for a warehouse facility located on the tribe's trust land. The financing required for the project requires a lease agreement term of at least 86 years.¹⁶

Discussion Draft ANS to H.R. 7581 (Rep. Huffman)

The Yurok Tribe is the largest tribe in the State of California with more than 6,000 members. The Tribe's reservation consists of a 44-mile-long strip of land one mile from either side of the Klamath River, from Del Norte County (on the Pacific Coast) through Humboldt County, California.¹⁷

The Yurok Reservation was originally an extension of the Hoopa Valley Indian Reservation (also called the Hoopa Square), a reservation established for the Hoopa Indians in the middle 1800's, adjoining the Yurok Reservation near the confluence of the Klamath and Trinity Rivers.¹⁸ During the 20th century, disputes over the ownership and status of what was governed as a joint reservation for the Hoopas and Yuroks were resolved under the *Hoopa-Yurok Settlement Act*.¹⁹

A remote, largely forested region, the Yurok Reservation was opened in the 1800's as "surplus" lands for purchase by non-Indians, particularly timber companies.²⁰ Today, the Tribe has some of its own holdings and it relies on natural resource-based development for its economy.

Through H.R. 7581, as introduced, the Yurok Tribe would have a larger land base through the conveyance of 1,229 acres of USFS land to the Tribe, to be held in trust and by revising the reservation boundary to include significant federal and tribe holdings of land. The bill would also authorize cooperative management agreements for the management of lands and resources in the revised reservation and ratifying certain documents relating to the Tribe's authorities.

Land held in trust by the U.S. for the benefit of Indians is non-taxable. Such land is also subject to a variety of federal laws unique to Indian tribes. Land included in an Indian reservation is generally immune from State and local regulatory authority including environmental laws and zoning restrictions.

A map of the land to be placed into trust can be viewed [here](#).

¹⁶ <https://www.indian.senate.gov/sites/default/files/Chehalis%20Prepared%20Statement%20on%20S.3773.pdf>

¹⁷ "Yurok", *Tiller's Guide to Indian Country*, Edited and Compiled by Veronica E. Velarde Tiller (2015).

¹⁸ *Id.*

¹⁹ P.L. 100-580—October 31, 1988; 102 Stat. 2924.

²⁰ "Yurok", *Tiller's Guide to Indian Country*, Edited and Compiled by Veronica E. Velarde Tiller (2015).

Issues and Concerns

Democrat staff indicated that the USFS was not invited to testify even though most lands affected by this bill are managed by that agency. A witness from the BIA was invited and will testify.

Several tribes in California have mixed views of H.R. 7581, as introduced. Seven tribes in northern California strongly oppose the legislation in its current form, while ten tribes and tribal organizations wrote in support of the previous version of the bill (H.R. 3847, 115th Congress). Those opposed argue they have interests in the lands and resources affected by H.R. 7581, as the bill would have given the Yurok tribe greater control over shared ancestral territory.

The Discussion Draft ANS to H.R. 7581 does not however, include provisions from the bill as introduced which authorized the Yurok tribe to enter into cooperative management agreements for the management of lands and resources in the revised reservation and ratifying certain documents relating to the tribe's authorities that were objected to by the seven tribes in California.

H.R. 8115, Recreation and Public Purposes Tribal Parity Act, (Rep. LaMalfa)

The *Recreation and Public Purposes Act* (R&PP) authorizes the Secretary of the Interior to sell or lease public lands for recreational or public purposes to state and local governments and to qualifying non-profit organizations.²¹ The Act applies to all public lands identified for disposal within existing land use plans. Excepted lands are those within national forests, national parks and monuments, national wildlife refuges, Indian lands, and acquired lands. Under special authority, the BLM administers about 2 million acres of revested Oregon and California Railroad and Coos Bay Wagon Road grant lands in western Oregon. These lands may only be leased by public agencies and municipal corporations under the Act.²²

The R&PP has enabled these entities to buy or lease public lands for use as campgrounds, schools, fire houses, law enforcement facilities, municipal facilities, hospitals, parks, and fairgrounds.²³

The federal government owns roughly 640 million acres, about 28 percent of the total land in the United States.²⁴ Public lands potentially available for disposal by the Bureau of Land Management alone are located across at least 18 states.²⁵

Since the R&PP's passage in 1926 and subsequent revision in 1954, Congress has continually acknowledged and strengthened tribal sovereignty and self-determination.

²¹ 43 U.S.C. 869 et seq.

²² https://www.blm.gov/sites/default/files/LandTenure_RecandPublicPurposesAct_InfoSheet.pdf.

²³ *Id.*

²⁴ Federal Land Ownership: Overview and Data. CRS 2020. <https://sgp.fas.org/crs/misc/R42346.pdf>.

²⁵ *Lands Potentially Available for Disposal*, Bureau of Land Management, <http://www.blm.gov/programs/lands-and-realty/land-tenure/sales-and-exchanges/lands-potentially-for-disposal>.

Under the *Indian Self-Determination and Education Assistance Act* (ISDEAA), Congress gave Indian tribes the right to acquire excess and surplus property of federal agencies.²⁶

H.R. 8115 would continue the recognition of tribal sovereignty and self-determination by adding Indian tribes to the list of eligible entities to purchase or lease federal lands pursuant to the R&PP.

H.R. 8286, To take certain Federal land in the State of Washington into trust for the Lower Elwha Klallam Tribe, and for other purposes (Rep. Kilmer)

The Lower Elwha Klallam Tribe is located on the northwestern Washington's Olympic Peninsula. The reservation is located about 10 miles from the Port Angeles.²⁷ The Tribe was a signatory to the Treaty of Point-No-Point of 1855, which entitled them to a small reservation shared with the Skokomish Tribe. However, many tribal members stayed along the rivers and shorelines of their traditional lands along the Elwha River and Strait of Juan de Fuca. The tribe was formally recognized in 1968 and land in their aboriginal lands were formally established as the tribe's reservation.²⁸

H.R. 8286 would take approximately 1,083 acres of National Park Service (NPS) land in Clallam County, WA, into trust land for the Lower Elwha Klallam Tribe and make the land part of the Tribe's reservation. This land was acquired by the NPS in the 1990's for dam removal under the *Elwha River Ecosystems and Fisheries Restoration Act* (Elwha Act).²⁹ The Elwha Act, passed in 1992, authorizing the removal of the Elwha and Glines Canyon dams to restore the Elwha River and the native anadromous fisheries (e.g., for species of salmon and trout). These dams were built in the early 1900's to generate hydropower to supply electricity for the emerging town of Port Angeles. Construction of the dams blocked the migration of salmon upstream, disrupted the flow of sediment downstream, and flooded historic homelands and cultural sites of the Lower Elwha Klallam Tribe. After two decades of planning, dam removal began on September 17, 2011, with the Elwha Dam removed in 2012 and the Glines Canyon Dam in 2014.³⁰ The Elwha Act also included language requiring NPS to identify lands to transfer to the Lower Elwha Klallam Tribe "for tribal housing, cultural, or economic development purposes" and to place into trust.³¹ The land that would be placed into trust by H.R. 8286 are some of the tribe's historic homelands and cultural sites that had been flooded when the Elwha and Glines Canyon dams were built.

A map of the lands to be placed into trust can be viewed [here](#).

²⁶ 25 U.S.C. § 5324(f).

²⁷ "Lower Elwha" *Tiller's Guide to Indian Country*, Edited and Compiled by Veronica E. Velarde Tiller (2015).

²⁸ *Id.*

²⁹ P.L. 102-495, available at: <https://www.nps.gov/olym/learn/nature/upload/ElwhaAct.pdf>

³⁰ National Park Service, "Elwha River Restoration" available at: <https://www.nps.gov/olym/learn/nature/elwha-ecosystem-restoration.htm>, see also Dept. of Interior, Dept. of Commerce & Lower Elwha [Klallam Tribe, Executive Summary, "The Elwha Report: Restoration of the Elwha River Ecosystem & Native Anadromous Fisheries" Jan. 1994, (copy on file with staff).

³¹ P.L. 102-495 Sec. 3(c)(3).

H.R. 8380, Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act of 2022 (Rep. Garcia)

Today, the Prairie Band Potawatomi Indians Reservation is located in northeastern Kansas, approximately 20 miles north of Topeka.³² In the early 1830's, the Prairie Band Potawatomi people were removed from their lands in Illinois.³³ In treaties that ceded lands from the Potawatomi people, two parcels in Illinois were set aside for Chief Shab-eh-nay and his band in the Treaty of Prairie du Chien³⁴ and then the parcels were preserved as a reservation when the Senate removed a provision in the Treaty of Chicago that would have changed Chief Shab-eh-nay's land from reservation land to land owned in fee simple.³⁵

In 1849, the U.S. General Land Office sold the 1,280 acres of reservation land at public auction to non-Indian settlers, likely in violation of the *Indian Non-Intercourse Act*.³⁶ A 2001 Clinton Administration DOI Solicitor Opinion found that the Prairie Band Potawatomi Nation were the successors to Chief Shab-eh-nay and his Band, and that they had a credible claim for unextinguished Indian title to the 1,280 acres set aside for Chief Shab-eh-nay and then sold by the U.S. General Land Office in 1849.³⁷

H.R. 8380 would provide for the settlement of claims by the Prairie Band Potawatomi Nation relating to the Shab-eh-nay Band Reservation in northern Illinois. The reservation consists of 1,280 acres and, due to a sale by the U.S. General Land Office in 1849, is currently occupied by the tribe and non-tribe entities, including the State of Illinois, the DeKalb County government, and corporate entities.

Particularly, the bill would recognize the Tribe's current fee simple ownership of 130 acres of land within the reservation and place the land in restricted fee status, which is not subject to taxation or alienation. The bill would also extinguish the Tribe's title to the remainder of the reservation as part of the settlement and would require the DOI to pay the tribe \$10 million as a partial settlement of the Tribe's claims, to be used by the tribe to promote economic development and land acquisition. Subsequent payments for the settlement would be determined through a calculation of an assessment of the total damages to the tribe for the improper sale of the reservation property, including current land value of the reservation, and then a final settlement agreement would be negotiated in lieu of litigation.

³² "Prairie Band" *Tiller's Guide to Indian Country*, Edited and Compiled by Veronica E. Velarde Tiller (2015).

³³ <https://www.pbpindiantribe.com/timeline/>.

³⁴ Treaty of Prairie du Chien (1829) Article III, available at: [https://treaties.okstate.edu/treaties/treaty-with-the-chippewa-etc.-1829.-\(0297\)](https://treaties.okstate.edu/treaties/treaty-with-the-chippewa-etc.-1829.-(0297))

³⁵ Treaty of Chicago (1833), Article 5th (stricken by Senate action), available at: [https://treaties.okstate.edu/treaties/treaty-with-the-chippewa-etc.-1833.-\(0402\)](https://treaties.okstate.edu/treaties/treaty-with-the-chippewa-etc.-1833.-(0402))

³⁶ DOI Solicitor Opinion, Letter from Dept. of Interior Solicitor John Leshy to Speaker Hastert and Governor Ryan of Illinois, Jan. 18, 2001. On file with staff and available at: <https://dekalbcounty.org/wp-content/uploads/2019/02/pbpn-adi011801.pdf>

³⁷ *Id.*

There is support for this bill from the local Village of Shabbona³⁸ and both the Illinois state House³⁹ and Senate⁴⁰ have passed resolutions in support of the Prairie Band Potawatomi Nation's efforts to regain possession of the Shab-eh-nay Reservation. DeKalb County, IL has not taken a position on the legislation to date.

Ancient Land Claims

Through the *Indian Claims Commission Act* (ICCA), Congress barred claims against the United States that pre-date August 13, 1946, and that were not filed before the Indian Claims Commission (ICC) by August 13, 1951.⁴¹ Through the ICCA, Congress intended to vest the ICC with time-limited, exclusive jurisdiction to hear Indian tribes' and identifiable groups' pre-1946 claims against the United States, so that the claims could be resolved with finality⁴² and tribes would not further come back to Congress years later with further land claims.⁴³

In the case of the Shab-eh-nay Reservation, the DOI Solicitor's Office issued a Memorandum in July 2000 with a legal opinion on the validity of the Prairie Band Potawatomi Nation's claim to the Shab-eh-nay Band Reservation. In that 2000 Memorandum, DOI stated that Shab-eh-nay's Band held title to the reservation land and that the title could not be extinguished without Congressional action and so the reservation continues to exist.⁴⁴ The 2000 Memorandum also stated the statute of limitations for tribal claims contained in the ICCA applies only to claims for money damages against the United States but does not bar tribal claims against third parties.⁴⁵ It is clear that the existence of a claim does cloud the property title of all non-Indian owners of any of the 1,280 acres that remains the Shab-eh-nay reservation.

The Prairie Band Potawatomi Nation did file claims with the ICC, however, the issue of Shab-eh-nay's reservation was not resolved, because the acreage reserved to individuals in the Treaty of Prairie du Chien was not included in the final acreage at issue in the claim,

³⁸ Letter to Sen. Durbin from Village of Shabbona President, May 15, 2021, on file with staff.

³⁹ <https://ilga.gov/legislation/billstatus.asp?DocNum=504&GAID=16&GA=102&DocTypeID=HR&LegID=136979&SessionID=110>

⁴⁰ <https://www.ilga.gov/legislation/BillStatus.asp?GA=102&DocTypeID=SR&DocNum=896&GAID=16&SessionID=110&LegID=140627>

⁴¹ Act of Aug. 13, 1946, ch. 959, §1, 60 Stat. 1049 et seq. available at:

<https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/60/STATUTE-60-Pg1049.pdf>

⁴² *United States v. Dann*, 470 U.S. 39, 45-46 (1985) (quoting 92 Cong. Rec. 5312 (1946) and H. R. Rep. No. 1466, 79th Cong., 1st Sess., 10 (1945)).

⁴³ *Navajo Tribe of Indians v. New Mexico*, 809 F.2d 1455, 1465 (10th Cir. 1987) (quoting 92 Cong. Rec. 5312 (1946)).

⁴⁴ DOI Solicitor Memorandum, To Dept. Sec. Hayes and Asst. Sec of Indian Affairs Kevin Grover, July 24, 2000, at 11-12. (on file with staff).

⁴⁵ *Id.* at 17.

and for which the ICC awarded payment.⁴⁶ A 2001 DOI Solicitor Opinion stated that because the ICC did not resolve the Shab-eh-nay reservation, “we believe the U.S. continues to bear a trust responsibility to the Prairie Band for these lands.”⁴⁷

Concerns

H.R. 8380 would reopen settlement questions that presumably should have been resolved by the ICC. The tribe was aware of the ICCA process, as it filed several claims—categorized as dockets in the ICC—which resulted in cash judgments for the Prairie Band Potawatomi Nation, other tribes and identifiable groups of Indians.⁴⁸ It is unclear why the tribe did not pursue the issue of the Shab-eh-nay reservation further before the ICC at that time.

In addition, H.R. 8380 could make land purchased with settlement funds eligible for gaming. Section 20 of the IGRA⁴⁹ bans gaming on newly acquired trust lands, with certain exceptions. One of these exceptions is when land is acquired in settlement of a land claim.⁵⁰ Under the land claim exception, land acquired in trust through judgment or settlement of a land claim is automatically eligible for gaming, without the consent of the State or the federal government.

A map of the land to be placed into restricted fee status and of the reaffirmed reservation area can be viewed [here](#).

H.R. 8387, Parity for Tribal law enforcement Act (Rep. Newhouse)

The *Indian Law Enforcement Act of 1990*⁵¹ and the implementing regulations contained in Title 25 of the Federal Code of Regulations provides the main statutory and regulatory authority for the Bureau of Indian Affairs (BIA) office of Justice Services to carry out law enforcement functions in Indian country. The BIA provides basic police and corrections services while other federal agencies such as the Department of Justice (DOJ), the Federal Bureau of Investigations (FBI), the Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) also have responsibilities to investigate crimes in Indian country. To carry out law enforcement activities, the BIA can either provide “direct” service (ie. with federal employee law enforcement officers) or it

⁴⁶ 11 Ind. Cl. Comm. 693, 710-711 (1962), *available at*: <https://cdm17279.contentdm.oclc.org/digital/collection/p17279coll10/id/726/rec/2>, *see also*, 2001 DOI Solicitor Opinion at 2.

⁴⁷ 2001 DOI Solicitor Opinion at 2.

⁴⁸

<https://cdm17279.contentdm.oclc.org/digital/collection/p17279coll10/search/searchterm/prairie%20band%20potawatomini%20nation/field/subject/mode/exact/conn/and>.

⁴⁹ 25 USC 2701 et seq.

⁵⁰ 25 U.S.C. 2719(b)(1)(B)(i).

⁵¹ 25 USC 2801.

can contract or compact with a tribe to carry out the functions the BIA would otherwise provide, pursuant to the ISDEAA.⁵²

Pursuant to the Indian Law Enforcement Act, Special Law Enforcement Commission (SLEC) agreements are required for tribal law enforcement officers to enforce federal criminal laws in Indian country. For Indian tribes in some regions of the country, obtaining SLEC agreements and renewing those agreements has proven administratively difficult and some tribal officers are unable to respond in certain instances.⁵³ The DOI has recommended a change in the law would provide greater stability within Indian country.⁵⁴

H.R. 8387 would authorize tribal officers acting under a contract or compact entered into by their respective tribal employers under the ISDEAA to be considered federal law enforcement officers and to enforce federal law without SLECs, provided certain qualifications and requirements comparable to federal-BIA law enforcement officers are met. The bill would also treat tribal law enforcement officers acting under an ISDEAA contract or compact as federal law enforcement officers for purposes of certain other federal laws, including for benefits applicable to federal law enforcement officers for injury and death, retirement, and pension benefits, which are available to BIA law enforcement officers. Tribal law enforcement officers are currently not eligible for these federal benefit programs, but BIA law enforcement officers are eligible. H.R. 8387 would ensure these benefits are available to all law enforcement officers carrying out duties in Indian country.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 6032, the Katimiûn and Aameekyáaraam Sacred Lands Act (Rep. Huffman)

Section 1. *Short title.*

Section 2. *Land held in trust for the Karuk Tribe.*

Subsection (a). recognizes the historical use and ongoing relationship between the Karuk tribe and the land to be held in trust pursuant to the Act.

Subsection (b). Stipulates that the approximately 1,031 acres of U.S. Department of Agriculture land in Siskiyou County and Humboldt County, California, shall be transferred to DOI to be held in trust for the Karuk tribe.

Subsection (c). Not later than 180 days after enactment, the Secretary of the Interior shall complete a survey of the land taken into trust.

Subsection (d). The land taken into trust under the Act shall be used only for traditional and customary uses for the benefit of the tribe. Class II and III gaming pursuant to IGRA are prohibited.

⁵² 25 USC 5301 et seq.

⁵³ <https://www.indian.senate.gov/sites/default/files/10.25.17%20Bryan%20Rice%20Testimony.pdf>.

⁵⁴ S. Rpt. 116-37 at 20. <https://www.congress.gov/116/crpt/srpt37/CRPT-116srpt37.pdf>.

Subsection (e). The land taken into trust under the Act shall not affect the status or administration of any component of the national wild and scenic rivers system.

H.R. 6964, To authorize leases of up to 99 years for lands held in trust for the Confederated Tribes of the Chehalis Reservation (Rep. Strickland)

Section 1. *Confederated Tribes of the Chehalis Reservation leasing authority.* Amends the second sentence of subsection a of the Long-Term leasing Act by inserting “, land held in trust for the Confederated Tribes of the Chehalis Reservation” after “Crow Tribe of Montana”.

Discussion Draft ANS to H.R. 7581 (Rep. Huffman)

Section 1. *Short title.*

Section 2. *Definitions.*

Section 3. *Land to be held in trust for the tribe.*

Subsection (a). Subject to valid rights, the Secretary of Agriculture shall transfer the administration of approximately 1,229 acres of land in the Yurok Experimental Forest and Six Rivers National Forest on the map entitled “Experimental Forest” and dated October 4, 2016, to the Interior for the tribe. The map shall be available to the public in the appropriate U.S. Forest Service offices.

Subsection (b). The Secretary of the Interior shall hold the land transferred into trust for the tribe.

Subsection (c). The tribe shall develop a tribal land use management plan in accordance with the *National Environmental Policy Act* (NEPA).

Subsection (d). Not later than one year after enactment, the Secretary of Agriculture and the tribe shall enter into consultations to develop protocols to ensure the research activities of the U.S. Forest Service shall continue on the land in perpetuity.

Subsection (e). Not later than one year after enactment, the Secretary of the Interior shall complete a survey to establish the exterior boundaries of the land taken into trust.

Subsection (f). The land taken into trust under this Act shall be managed by the tribe for conservation and research purposes, is ineligible for gaming pursuant to the *Indian Gaming Regulatory Act* (IGRA)⁵⁵ and not subject to old growth logging.

Sec.4. *Yurok Reservation Boundary Adjustment.*

⁵⁵ 25 USC 2701 et seq.

Subsection (a). The Secretary of Interior shall revise the boundary of the Tribe's reservation and the map shall be on file and available for public viewing at the Office of the Regional Forrester, Pacific Southwest Region, Vallejo, CA.

Subsection (b). All National Forest System land within the revised Yurok Reservation shall continue to be administered by the USFS. All National Park System land within the revised reservation shall also continue to be administered by the National Park Service.

Sec.5. Yurok Scenic Byway Designation.

Subsection (a). Bald Hills Road from its junction with U.S. Highway 101 to its terminus on the Klamath River shall be designated as the Yurok Scenic Byway, an Indian Tribe scenic byway, and the tribe shall be eligible for appropriate grants and technical assistance.

Subsection (b). The tribe shall not prohibit or limit, and the Secretary of the Interior shall allow, continued access and use of the Bald Hills Road in connection with the Redwood National Park.

H.R. 8115, Recreation and Public Purposes Tribal Parity Act, (Rep. LaMalfa)

Section 1. Short title.

Section 2. Sale Or Lease Of Land To Federally Recognized Indian Tribes Under The Recreation And Public Purposes Act.

Subsection (a). Amends the first section of the R&PP Act to include federally recognized Indian tribes as duly qualified applicants to receive federal disposal land for recreational and public purposes.

Acreage amounts conveyed to an Indian tribe are limited to 6,400 acres per year for recreational purposes and 640 acres for public purposes.

Subsection (b). Amends section two of the R&PP to extend authorization to federally recognized Indian tribes to purchase or lease land from the federal government.

H.R. 8286, To take certain Federal land in the State of Washington into trust for the Lower Elwha Klallam Tribe, and for other purposes (Rep. Kilmer)

Section 1. Land taken into trust for the Lower Elwha Klallam Tribe.

Subsection. (a). Definitions.

Subsection (b). *Land Held in Trust..* Subject to valid existing rights, takes approximately 1,083 acres of National Park Service land into trust for the benefit of the Lower Elwha Klallam Tribe and makes that land to be part of the tribe's reservation.

Subsection (c). *Land Management*. Requires lands placed into trust be managed in accordance with the Wild And Scenic Rivers Act, except for modifications under the Elwha River Ecosystem and Fisheries Act.

Subsection (d). *Map and Survey*. Requires the Department of Interior to survey the land to be taken into trust and make minor boundary changes and fix any minor errors in the map, acreage, or description of lands.

Subsection (e). *Gaming Prohibition*. Prohibits gaming under the Indian Gaming Regulatory Act on the lands taken into trust.

H.R. 8380, Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act of 2022 (Rep. Garcia)

Section 1. *Short Title*.

Section 2. *Findings and Purpose*.

Section 3. *Definitions*.

Section 4. *Reaffirmation of Shab-eh-nay Band Reservation*. Places 130 acres currently owned in fee simple by the Prairie Band Potawatomi Nation into restricted fee status, which is nontaxable and inalienable.

Section 5. *Extinguishment of Indian Title; Confirmation of Land Ownership*. Extinguishes the title held by the tribe to the land and confirms the titles to land and rights-of-way within the Shab-eh-nay reservation land.

Section 6. *Waiver and Release of Claims*. Waives all claims the tribe may have against federal, state, and local governments, as well as other parties with an effective date of when full settlement funds are received by the tribe.

Section 7. *Settlement Funds*. An initial payment of \$10 million in partial settlement is due to the tribe 30 days after enactment. Subsequent payments would be subject to negotiation between the tribe and DOI, with DOJ having approval of the final form of the settlement. The bill also establishes a timeline for the payout of the remaining negotiated settlement funds.

Section 8. *Land Acquisition; Tribal Authority to Enter into Agreements; No use of Condemnation or Eminent Domain*. The tribe may use settlement funds to acquire up to 1,151 acres of land within or near the reservation. The bill authorizes the tribe to enter into agreements with the State of Illinois and local governments. It requires land that is located within the boundaries of the reservation and owned by state and local governments to be managed to protect any human or cultural remains.

Section 9. *Authorization of Appropriations*. \$10 million is authorized to carry out the legislation.

H.R. 8387, Parity for Tribal law enforcement Act (Rep. Newhouse)

Section 1. *Short title*.

Section 2. *Tribal Law Enforcement Officers*. Amends the *Indian Law Enforcement Reform Act* to add a new section that provides that law enforcement officers employed by Indian tribes that have self-governance compacts or contracts with the federal government shall have authority to enforce federal law within the area under tribal jurisdiction if they have completed the required training, passed an adjudicated background investigation, received BIA certification, and the Indian tribe has adopted the required policies and procedures that meet or exceed the same or similar policies of the BIA's Office of Justice Services.

Section 2 also deems law enforcement officers employed by Indian tribes that have compacted or contracted with the federal government to be federal law enforcement officers for purposes of certain federal laws, including laws that (a) provide for criminal penalties for assaulting and resisting federal law enforcement officers; (b) provide for injury and death benefits for federal law enforcement officers; (c) provide federal pension and retirement benefits for federal law enforcement officers; and (d) provide coverage for federal law enforcement officers under the *Federal Tort Claims Act*.

Lastly, Section 2 directs the Secretary of the Interior to develop procedures for the credentialing of tribal law enforcement officers and to promulgate other guidance to implement the section.

Section 3. *Oversight, Coordination, and Accountability*. Directs the U.S. Attorney General, through the Deputy Attorney General, to coordinate and conduct oversight into all Department of Justice activities, responsibilities, functions, and programs for public safety in Indian communities. This includes the timely submission of reports to Congress; robust training related to public safety in Indian communities and training outcomes that demonstrate a better understanding of public safety approaches; updating and improving operational plans; comprehensive analysis of data collected related to public safety in Indian communities; and other duties as needed to improve public safety in Indian communities.

V. COST

None of the bills on this hearing have received a formal Congressional Budget Office (CBO) cost analysis.

VI. ADMINISTRATION POSITION

H.R. 6032, the Katimiîn and Aameekyáaraam Sacred Lands Act (Rep. Huffman)

Unknown. However, DOI testified in support of a substantively similar senate companion legislation in July 2022.⁵⁶ The USDA did not, however provide a statement for the record.

H.R. 6964, To authorize leases of up to 99 years for lands held in trust for the Confederated Tribes of the Chehalis Reservation (Rep. Strickland)

DOI testified in support of the identical senate companion legislation, S. 3773, in March 2022.⁵⁷

Discussion Draft ANS to H.R. 7581 (Rep. Huffman)

Unknown.

H.R. 8115, Recreation and Public Purposes Tribal Parity Act, (Rep. LaMalfa)

Unknown.

H.R. 8286, To take certain Federal land in the State of Washington into trust for the Lower Elwha Klallam Tribe, and for other purposes (Rep. Kilmer)

Unknown.

H.R. 8380, Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act of 2022 (Rep. Garcia)

Unknown.

H.R. 8387, Parity for Tribal law enforcement Act (Rep. Newhouse)

Unknown.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 6964](#)

[H.R. 8115](#)

[H.R. 8387](#)

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<https://www.indian.senate.gov/sites/default/files/DOI%20Draft%20Tribal%20Water%20Rights%20and%20Sacred%20Lands%20Testimony%20%28CLEARED%29v2.pdf>.

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<https://www.indian.senate.gov/sites/default/files/03.23.2022%20SCIA%20Legislative%20Hearing%20Testimony%20%28CLEARED%29.pdf>.

