

Calendar No. 620

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-345

WESTERN OREGON TRIBAL FAIRNESS ACT

SEPTEMBER 8, 2016.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 815]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 815) to provide for the conveyance of certain Federal land in the State of Oregon to the Cow Creek Band of Umpqua Tribe of Indians, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

The amendment is as follows:

1. Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Western Oregon Tribal Fairness Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COW CREEK UMPQUA LAND CONVEYANCE

Sec. 101. Definitions.

Sec. 102. Land to be held in trust.

Sec. 103. Map and legal description.

Sec. 104. Administration.

Sec. 105. Land reclassification.

TITLE II—OREGON COASTAL LAND CONVEYANCE

Sec. 201. Definitions.

Sec. 202. Land to be held in trust.

Sec. 203. Map and legal description.

Sec. 204. Administration.

Sec. 205. Land reclassification.

TITLE III—AMENDMENTS TO COQUILLE RESTORATION ACT

Sec. 301. Amendments to Coquille Restoration Act.

TITLE I—COW CREEK UMPQUA LAND CONVEYANCE

SEC. 101. DEFINITIONS.

In this title:

59-010

(1) COUNCIL CREEK LAND.—The term “Council Creek land” means the approximately 17,519 acres of land, as generally depicted on the map entitled “Canyon Mountain Land Conveyance” and dated May 24, 2016.

(2) TRIBE.—The term “Tribe” means the Cow Creek Band of Umpqua Tribe of Indians.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 102. LAND TO BE HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights, including rights-of-way, all right, title, and interest of the United States in and to the Council Creek land, including any improvements located on the land, appurtenances to the land, and minerals on or in the land, including oil and gas, shall be—

(1) held in trust by the United States for the benefit of the Tribe; and

(2) part of the reservation of the Tribe.

(b) SURVEY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a survey to establish the boundaries of the land taken into trust under subsection (a).

(c) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date on which the Secretary records the agreement entered into under section 104(d)(1).

SEC. 103. MAP AND LEGAL DESCRIPTION.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Council Creek land with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) FORCE AND EFFECT.—The map and legal description filed under subsection (a) shall have the same force and effect as if included in this title, except that the Secretary may correct any clerical or typographical errors in the map or legal description.

(c) PUBLIC AVAILABILITY.—The map and legal description filed under subsection (a) shall be on file and available for public inspection in the Office of the Secretary.

SEC. 104. ADMINISTRATION.

(a) IN GENERAL.—Unless expressly provided in this title, nothing in this title affects any right or claim of the Tribe existing on the date of enactment of this Act to any land or interest in land.

(b) PROHIBITIONS.—

(1) EXPORTS OF UNPROCESSED LOGS.—Federal law (including regulations) relating to the export of unprocessed logs harvested from Federal land shall apply to any unprocessed logs that are harvested from the Council Creek land.

(2) NON-PERMISSIBLE USE OF LAND.—Any real property taken into trust under section 102 shall not be eligible, or used, for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

(c) FOREST MANAGEMENT.—Any forest management activity that is carried out on the Council Creek land shall be managed in accordance with all applicable Federal laws.

(d) AGREEMENTS.—

(1) MEMORANDUM OF AGREEMENT FOR ADMINISTRATIVE ACCESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall seek to enter into an agreement with the Tribe that secures existing administrative access by the Secretary to the Council Creek land.

(2) RECIPROCAL RIGHT-OF-WAY AGREEMENTS.—

(A) IN GENERAL.—On the date on which the agreement is entered into under paragraph (1), the Secretary shall provide to the Tribe all reciprocal right-of-way agreements to the Council Creek land in existence as of the date of enactment of this Act.

(B) CONTINUED ACCESS.—Beginning on the date on which the Council Creek land is taken into trust under section 102, the Tribe shall continue the access provided by the agreements referred to in subparagraph (A) in perpetuity.

(e) LAND USE PLANNING REQUIREMENTS.—Except as provided in subsection (c), once the Council Creek land is taken into trust under section 102, the Council Creek land shall not be subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

SEC. 105. LAND RECLASSIFICATION.

(a) IDENTIFICATION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary shall identify any Oregon and California Railroad grant

land that is held in trust by the United States for the benefit of the Tribe under section 102.

(b) IDENTIFICATION OF PUBLIC DOMAIN LAND.—Not later than 2 years after the date of enactment of this Act, the Secretary shall identify public domain land in the State of Oregon that—

(1) is approximately equal in acreage and condition as the Oregon and California Railroad grant land identified under subsection (a); and

(2) is located within the 18 western Oregon and California Railroad grant land counties (other than Klamath County, Oregon).

(c) MAPS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress and publish in the Federal Register 1 or more maps depicting the land identified in subsections (a) and (b).

(d) RECLASSIFICATION.—

(1) IN GENERAL.—After providing an opportunity for public comment, the Secretary shall reclassify the land identified in subsection (b) as Oregon and California Railroad grant land.

(2) APPLICABILITY.—The Act of August 28, 1937 (43 U.S.C. 1181a et seq.), shall apply to land reclassified as Oregon and California Railroad grant land under paragraph (1).

TITLE II—OREGON COASTAL LAND CONVEYANCE

SEC. 201. DEFINITIONS.

In this title:

(1) CONFEDERATED TRIBES.—The term “Confederated Tribes” means the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

(2) OREGON COASTAL LAND.—The term “Oregon Coastal land” means the approximately 14,742 acres of land, as generally depicted on the map entitled “Oregon Coastal Land Conveyance” and dated July 11, 2016.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 202. LAND TO BE HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights, including rights-of-way, all right, title, and interest of the United States in and to the Oregon Coastal land, including any improvements located on the land, appurtenances to the land, and minerals on or in the land, including oil and gas, shall be—

(1) held in trust by the United States for the benefit of the Confederated Tribes; and

(2) part of the reservation of the Confederated Tribes.

(b) SURVEY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a survey to establish the boundaries of the land taken into trust under subsection (a).

(c) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date on which the Secretary records the agreement entered into under section 204(d)(1).

SEC. 203. MAP AND LEGAL DESCRIPTION.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Oregon Coastal land with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) FORCE AND EFFECT.—The map and legal description filed under subsection (a) shall have the same force and effect as if included in this title, except that the Secretary may correct any clerical or typographical errors in the map or legal description.

(c) PUBLIC AVAILABILITY.—The map and legal description filed under subsection (a) shall be on file and available for public inspection in the Office of the Secretary.

SEC. 204. ADMINISTRATION.

(a) IN GENERAL.—Unless expressly provided in this title, nothing in this title affects any right or claim of the Confederated Tribes existing on the date of enactment of this Act to any land or interest in land.

(b) PROHIBITIONS.—

(1) EXPORTS OF UNPROCESSED LOGS.—Federal law (including regulations) relating to the export of unprocessed logs harvested from Federal land shall apply to any unprocessed logs that are harvested from the Oregon Coastal land taken into trust under section 202.

(2) NON-PERMISSIBLE USE OF LAND.—Any real property taken into trust under section 202 shall not be eligible, or used, for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

(c) **FOREST MANAGEMENT.**—Any forest management activity that is carried out on the Oregon Coastal land shall be managed in accordance with all applicable Federal laws.

(d) **AGREEMENTS.**—

(1) **MEMORANDUM OF AGREEMENT FOR ADMINISTRATIVE ACCESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall seek to enter into an agreement with the Confederated Tribes that secures existing administrative access by the Secretary to the Oregon Coastal land and that provides for—

(A) access for certain activities, including—

- (i) forest management;
- (ii) timber and rock haul;
- (iii) road maintenance;
- (iv) wildland fire protection and management;
- (v) cadastral surveys;
- (vi) wildlife, cultural, and other surveys; and
- (vii) law enforcement activities;

(B) the management of the Oregon Coastal land that is acquired or developed under chapter 2003 of title 54, United States Code, consistent with section 200305(f)(3) of that title; and

(C) the terms of public vehicular transit across the Oregon Coastal land to and from the Hult Log Storage Reservoir located in T. 15 S., R. 7 W., as generally depicted on the map described in section 201(2), subject to the requirement that if the Bureau of Land Management discontinues maintenance of the public recreation site known as “Hult Reservoir”, the terms of any agreement in effect on that date that provides for public vehicular transit to and from the Hult Log Storage Reservoir shall be void.

(2) **RECIPROCAL RIGHT OF WAY AGREEMENTS.**—

(A) **IN GENERAL.**—On the date on which the agreement is entered into under paragraph (1), the Secretary shall provide to the Confederated Tribes all reciprocal right-of-way agreements to the Oregon Coastal land in existence on the date of enactment of this Act.

(B) **CONTINUED ACCESS.**—Beginning on the date on which the Oregon Coastal land is taken into trust under section 202, the Confederated Tribes shall continue the access provided by the reciprocal right-of-way agreements referred to in subparagraph (A) in perpetuity.

(e) **LAND USE PLANNING REQUIREMENTS.**—Except as provided in subsection (c), once the Oregon Coastal land is taken into trust under section 202, the Oregon Coastal land shall not be subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

SEC. 205. LAND RECLASSIFICATION.

(a) **IDENTIFICATION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary shall identify any Oregon and California Railroad grant land that is held in trust by the United States for the benefit of the Confederated Tribes under section 202.

(b) **IDENTIFICATION OF PUBLIC DOMAIN LAND.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall identify public domain land in the State of Oregon that—

(1) is approximately equal in acreage and condition as the Oregon and California Railroad grant land identified under subsection (a); and

(2) is located within the 18 western Oregon and California Railroad grant land counties (other than Klamath County, Oregon).

(c) **MAPS.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress and publish in the Federal Register 1 or more maps depicting the land identified in subsections (a) and (b).

(d) **RECLASSIFICATION.**—

(1) **IN GENERAL.**—After providing an opportunity for public comment, the Secretary shall reclassify the land identified in subsection (b) as Oregon and California Railroad grant land.

(2) **APPLICABILITY.**—The Act of August 28, 1937 (43 U.S.C. 1181a et seq.), shall apply to land reclassified as Oregon and California Railroad grant land under paragraph (1).

TITLE III—AMENDMENTS TO COQUILLE RESTORATION ACT

SEC. 301. AMENDMENTS TO COQUILLE RESTORATION ACT.

Section 5(d) of the Coquille Restoration Act (25 U.S.C. 715c(d)) is amended—

(1) by striking paragraph (5) and inserting the following:

“(5) MANAGEMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest in accordance with the laws pertaining to the management of Indian trust land.

“(B) ADMINISTRATION.—

“(i) UNPROCESSED LOGS.—Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign nations that apply to unprocessed logs harvested from Federal land.

“(ii) SALES OF TIMBER.—Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered, and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.”;

(2) by striking paragraph (9); and

(3) by redesignating paragraphs (10) through (12) as paragraphs (9) through (11), respectively.

PURPOSE

The purpose of S. 815, as introduced, is to provide for the conveyance of certain Federal land in the State of Oregon to the Cow Creek Band of Umpqua Tribe of Indians.

BACKGROUND AND NEED

TITLE I—COW CREEK UMPQUA LAND CONVEYANCE

The Cow Creek Umpqua Tribe and its reservation are located in Canyonville, Oregon, along Interstate 5. The Tribe was the second in the state to sign a treaty with the United States in 1853, which the Senate ratified in 1854. According to the Tribe, its ancestral lands included territory between the Cascade Mountains and the Coast Ranges in southwestern Oregon along the South Umpqua River and its primary feeder stream, Cow Creek.

The United States formally terminated the Tribe through the Western Oregon Indian Termination Act of 1954 (“Termination Act,” Public Law 588, Chapter 733, 68 Stat. 724). This Act also terminated over 60 other tribes in Oregon. The “Termination Era,” as it became known, had a profound effect on Oregon Indian Tribes. When a tribe was terminated, it lost its recognized status as a sovereign entity, it lost its land base, and its members lost access to federal programs.

In the decades following the Termination Era, the Tribe continued to stay in its ancestral homelands. In 1982, Congress restored federal recognition of the Cow Creek Band of Umpqua Tribe of Indians by Public Law 97–391. The Tribe’s ancestral lands, however, were not returned. Instead, the Tribe maintained the expectation that, at some point in the future, it would be eligible to receive lands to serve as its reservation and from which it would be able to build its economy and exercise its authority as a sovereign government.

Today the Tribe has approximately 4,471 acres of land held in trust. The Tribe has used this land to operate the tribal government and tribally-owned businesses, which include Umpqua Indian Foods, the Seven Feathers Casino and Resort, the Umpqua Business Center, and the K Bar Ranch. These enterprises are operated by the Umpqua Indian Development Corporation, a tribal corpora-

tion chartered under section 17 of the Indian Reorganization Act (25 U.S.C. 477).

S. 815 would take into trust approximately 17,519 acres of public land in Oregon for the benefit of the Cow Creek Umpqua Tribe. The lands to be taken into trust are located in southwest Oregon and would be used to restore and expand the historic and economic base for the Tribe to include timber production. The conveyance of the land in trust will be subject to valid existing rights, including all reciprocal rights-of-way agreements. As a condition precedent to the land being taken into trust, the Secretary and the Tribe must enter into a memorandum of agreement (MOA) regarding administrative access for the Bureau of Land Management (BLM). A substantial amount of the public land placed in trust for the Tribe is currently part of the Oregon & California (O&C) railroad land grant, managed by the BLM. The Secretary of the Interior is required to reclassify as O&C land an equal acreage of public domain land located in the vicinity of the land given to the Tribe.

Land placed in trust for the Tribe may not be used for gambling under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 et seq.), and timber harvested from such land shall be subject to federal law restricting the export of unprocessed logs.

TITLE II—OREGON COASTAL LANDS

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians are the aboriginal inhabitants of the central and south-central coast of Oregon. After initial contact with fur traders in the early 1800s, these tribes along the Oregon coast negotiated a treaty with the United States in 1855; however, the treaty was never ratified nor the terms fully realized.

In 1940, six acres located 100 miles southwest of Eugene, Oregon, were bestowed to the Tribes by a non-Indian; later these lands were placed into trust by the Department of the Interior. These six acres constituted the Tribes' reservation.

The United States formally terminated the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians through the Termination Act. In 1984, the federal recognition of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians was restored by Public Law 98-481. Under that Act, several parcels of land in Coos County and Curry County in Oregon were taken into trust to establish a reservation for the Tribes. In 1998, Congress placed an additional tract of land into trust for the Tribes under Public Law 105-256. Today, the Tribes have 153 acres held in trust by the United States. Over the years the Tribes have acquired land through donations and purchases, including 98 acres of restored land along Highway 126 in Florence, Oregon, where the Three Rivers casino is located.

S. 815 would take into trust approximately 14,742 acres of public land for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians. The parcels to be taken into trust are located in western Oregon's Coos, Douglas, Benton, and Lane Counties, and include tracts such as the Coos Head, Talbot Allotment, and Umpqua Eden parcels, which are of particular cultural significance to the Tribes, as well as areas such as the Lower Smith River and Tioga tracts to be managed for timber production.

As a condition precedent to the land being taken into trust, the Secretary and the Tribes shall enter into a MOA regarding administrative access for the BLM. A substantial amount of the public land placed in trust for the tribe is currently part of the O&C railroad land grant, managed by the BLM. The Secretary of the Interior is required to reclassify as O&C land an equal acreage of public domain land located in the vicinity of the land given to the Tribe.

Land placed in trust for the Tribe may not be used for gambling under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 et seq.), and timber harvested from such land shall be subject to federal law restricting the export of unprocessed logs.

TITLE III—COQUILLE FOREST FAIRNESS

The Coquille Indian Tribe is located in Coos Bay/North Bend, Oregon, along the southern coast. After negotiating but failing to ratify a treaty with the Coquilles in the 1850s, the United States sought to forcibly relocate the Coquille people to the Coast (Siletz) reservation. A number of families, however, resisted relocation and stayed on their aboriginal lands. Others made escapes from their confinement on the Coast Reservation to return to their ancestral homelands. The homelands they returned to were in the process of irrevocable alteration.

The United States formally terminated the Coquille Indian Tribe through the Termination Act. In 1989, the Coquille Restoration Act (Public Law 101-42, 25 U.S.C. 715c) restored federal recognition of the Coquille Indian Tribe and directed the Secretary of the Interior to develop a plan for the Tribe's self-sufficiency. The Secretary later adopted a plan that has as its self-described "cornerstone" the restoration of 59,000 acres of the Tribe's ancestral lands. The Secretary ultimately transferred only one tenth of the amount required by the Self-Sufficiency Plan (5,410 acres). These lands are referred to as the "Coquille Forest."

Coquille tribal forestlands generate timber revenues that are an essential component of the goal shared by the Tribe and Congress for Coquille tribal self-governance. Reasonably consistent and predictable timber revenues are critical for the successful planning and management of Tribal programs, as well as providing employment for Tribal members and members of the local community, in both direct and indirect ways.

Unlike other tribal trust forestlands in the United States, pursuant to the Coquille Restoration Act, the Coquille tribal forestlands are statutorily required to be managed under State and Federal forestry and environmental laws and are subject to the standards and guidelines of the federal forest plans on adjacent or nearby Federal lands.

This statutory requirement negatively impacts the Tribe by reducing the land available for timber harvest from 5,140 acres to 2,009 acres. In addition, the linkage to other Federal forestlands has invited repeated appeals and litigation against the Department of the Interior in attempts to block or severely restrict timber management on tribal forestlands. The delays and costs associated with the appeals and litigation have directly impacted the Tribe.

Timber on tribal lands is generally subject to laws and regulations implemented by the Department of the Interior, including the

National Indian Forest Resources Management Act (25 U.S.C. 3101 et seq.). Title III of S. 815 would require the Secretary of the Interior to manage the Coquille Forest in accordance with laws pertaining to the management of Indian trust land.

S. 815 combines the text of three bills introduced in the 114th Congress, S. 814, S. 815, and S. 816, as separate titles.

LEGISLATIVE HISTORY

S. 132, the larger umbrella Oregon and California Land Grant Act, was introduced by Senators Wyden and Merkley on January 8, 2015. S. 132 contains text broken out into three bills, S. 814, S. 815, and S. 816, introduced by Senators Wyden and Merkley on March 19, 2015.

House companion bills, H.R. 1436, H.R. 1437, and H.R. 1438 were introduced by Representatives DeFazio and Walden on April 7, 2015. H.R. 2791 was introduced in the House of Representatives by Representatives DeFazio and Walden on June 16, 2015. H.R. 2791 combines the text of the three bills, H.R. 1436, H.R. 1437, and H.R. 1438. H.R. 2791 passed the House of Representatives by voice vote on September 16, 2015.

The Subcommittee on Public Lands, Forests and Mining held a hearing on S. 814, S. 815, on May 21, 2015 and a hearing on S. 132 on July 16, 2015.

On July 13, 2016, the Committee on Energy and Natural Resources held a business meeting and ordered S. 815 favorably reported with an amendment in the nature of a substitute, which combines the text of S. 814, S. 815, and S. 816.

In the 113th Congress, Senators Wyden and Merkley introduced S. 1414 and S. 1415, similar bills to S. 814 and S. 815, on July 31, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bills on November 20, 2013 (S. Hrg. 113–342). The text of S. 1414 and S. 1415 were also included in S. 1784, the Oregon and California Land Grant Act of 2014, which was ordered reported with an amendment in the nature of a substitute by the Committee on Energy and Natural Resources on November 13, 2014 (S. Rept. 113–307).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 815, if amended as described herein. Senator Barrasso requested that he be recorded as voting no.

COMMITTEE AMENDMENT

During its consideration of S. 815, the Committee adopted an amendment in the nature of a substitute.

The amendment in the nature of a substitute combines the text of three bills introduced in the 114th Congress, S. 814, S. 815 and S. 816, as separate titles. The substitute amendment also makes a number of changes, including a requirement that, as a condition precedent to the Secretary taking any land into trust for the Tribes, that the Tribes enter into access agreements with the Secretary for the lands to be taken into trust; and a requirement that

existing reciprocal rights-of-way agreements be honored in perpetuity on lands taken into trust.

The amendment is further described in the section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; Table of contents

Section 1 provides a short title and a table of contents.

TITLE I—COW CREEK UMPQUA LAND CONVEYANCE

Section 101. Definitions

Section 101 defines key terms for this title.

Section 102. Lands to be held in trust

Section 102 requires the Council Creek land, subject to valid existing rights, to be held in trust by the United States for the benefit of the Tribe and made part of the reservation on the date that is the day after the date that the Secretary records the administrative access agreement required under section 104(d)(1). The Section also requires the Secretary to complete a survey to establish the boundaries of the land taken into trust within two years of the Act's enactment.

Section 103. Map and legal description

Section 103(a) directs the Secretary to file a map and legal description with certain Congressional committees as soon as practicable.

Subsection (b) provides that the maps and legal description have the same force and effect as if included in the Title and specifies that the Secretary may correct clerical or typographical errors in the map or legal description.

Subsection 3(c) requires that the map and legal description be on file and available for public inspection in the Office of the Secretary.

Section 104. Administration

Section 104(a) preserves the Tribe's existing rights or claims to any land or interest in land that exist on the date of enactment.

Subsection (b) expressly prohibits the Tribe from exporting unprocessed logs that are harvested from Council Creek land or from using any property taken into trust under section 102 for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

Subsection (c) requires any forest management activities on Council Creek land to be managed in accordance with all applicable Federal laws.

Subsection (d) requires the Secretary to seek to enter into an MOA with the Tribe for administrative access to the Council Creek land. Once such an agreement is signed, the Secretary is required to provide to the Tribe all the existing reciprocal rights of way agreements that exist on the land. This Section further requires the Tribe to continue the access provided by these agreements in perpetuity on the lands taken into trust.

Subsection (e) specifies that the land taken into trust is not subject to the planning requirements under the Federal Land Policy and Management Act except as provided for forest management activities in section 104(c).

Section 105. Land reclassification

Section 105 requires the Secretary of Agriculture and the Secretary of the Interior to identify any Oregon and California Railroad grant land that is held in trust under section 102 of this Title within 180 days after the date of enactment. The Section further requires that within two years the Secretary identify public domain land that meets certain criteria outlined in the Section that can be reclassified as Oregon and California Railroad grant land. The Secretary is required to submit to Congress and publish in the federal register maps that depict the public domain land to be reclassified and provide an opportunity for public comment.

TITLE II—OREGON COASTAL LAND CONVEYANCE

Section 201. Definitions

Section 201 defines key terms used in this Title.

Section 202. Land to be held in trust

Section 202 requires the Oregon Coastal land, subject to valid existing rights, to be held in trust by the United States for the benefit of the Confederated Tribes and made part of the reservation on the date that is the day after the date that the Secretary records the required administrative access agreement. The Section also requires that the Secretary, within two years of enactment of the Act, complete a survey to establish the boundaries of the land taken into trust.

Section 203. Map and legal description

Section 203(a) directs the Secretary to file a map and legal description with certain Congressional committees.

Subsection (b) provides that the maps and legal description have the same force and effect as if included in the Title and specifies that the Secretary may correct clerical or typographical errors in the map or legal description.

Subsection (c) requires that the map and legal description be on file and available for public inspection in the Office of the Secretary.

Section 204. Administration

Section 204(a) preserves the Confederated Tribes' existing rights or claims to any land or interest in land that exist on the date of enactment.

Subsection (b) expressly prohibits the tribe from exporting unprocessed logs that are harvested from Oregon Coastal land or from using any property taken into trust under section 202 to be used for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

Subsection (c) requires any all forest management activities on the Oregon Coastal land to be managed in accordance with all applicable Federal laws.

Subsection (d) requires the Secretary to seek to enter into an MOA with the Confederated Tribes for administrative access for certain activities described in the section to the Oregon Coastal land and once such agreement is signed the Secretary is required to provide to the Confederated Tribes all the existing reciprocal rights of way agreements that exist on the land. This Section further requires the Confederated Tribes to continue the access provided by these agreements in perpetuity on the lands taken into trust.

Subsection (e) specifies that the land taken into trust is not subject to the planning requirements under the Federal Land Policy and Management Act except as provided for forest management activities in section 204(c).

Section 205. Land reclassification

Section 205 requires the Secretary of Agriculture and the Secretary of the Interior to identify any Oregon and California Railroad grant land that is held in trust under section 102 of this Title within 180 days after the date of enactment. The Section further requires that within two years the Secretary identify public domain land that meets certain criteria outlined in the Section that can be reclassified as Oregon and California Railroad grant land. The Secretary is required to submit to Congress and publish in the federal register maps that depict the public domain land to be reclassified and provide an opportunity for public comment.

TITLE III—AMENDMENTS TO THE COQUILLE RESTORATION ACT

Section 301. Amendments to Coquille Restoration Act

Section 301 amends the Coquille Restoration Act by striking paragraphs (5) and (9) and inserting a new paragraph (5) that requires the Coquille Forest to be managed according to the laws that apply to the management of Indian trust land. The Section also prohibits the export of unprocessed logs harvested from the Coquille Forest and specifies certain requirements for timber sales.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the internet at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 815. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 815, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 815, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the U.S. Forest Service of the U.S. Department of Agriculture and the Bureau of Land Management of the U.S. Department of the Interior on S. 814, S. 815, and S. 816 follows:

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

S. 814 would provide for the conveyance of certain Federal land in the State of Oregon to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians and S. 815 would provide for the conveyance of certain Federal land in the State of Oregon to the Cow Creek Band of Umpqua Tribe of Indians. We defer to the Department of the Interior for its position on these bills. There are no NFS lands included within the boundaries of the “Canyon Mountain Land Conveyance map dated 6–27–2013 or the Oregon Coastal Land Conveyance Map dated 6–27–2013.

This concludes my remarks. Thanks for the opportunity to testify.

STATEMENT OF TIMOTHY M. MURPHY, ACTING ASSISTANT DIRECTOR, NATIONAL CONSERVATION LANDS & COMMUNITY PARTNERSHIPS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 814, the Oregon Coastal Lands Conveyance Act and S. 815, the Cow Creek Umpqua Land Conveyance Act. S. 814 would provide that approximately 14,804 acres of Bureau of Land Management (BLM)-managed lands in western Oregon be held in trust on behalf of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians. S. 815 would provide that approximately 17,519 acres of BLM-managed lands in western Oregon be held in trust on behalf of the Cow Creek Band of Umpqua Tribe of Indians. The bills would also require the Department of the Interior to reclassify an equal number of acres of public domain lands as Oregon and California (O&C) lands to compensate for the loss of O&C lands transferred by the bills.

The Department of the Interior welcomes opportunities to work with Congress on the transfer of lands into trust status and supports the goals of S. 814 and S. 815. The BLM would like the opportunity to work with the sponsor and the Committee to address various issues related to the bill, including current uses of the lands, consistency with other laws, and the difficulty of identifying public domain lands to be reclassified as O&C lands.

BACKGROUND

Both the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and the Cow Creek Band of the Umpqua Tribe of Indians have expressed their desire to acquire culturally significant tracts of land in the region as well as forest lands to be managed for the financial benefit of tribal members. The BLM strongly believes that open communication between the BLM and tribes is essential in maintaining effective government-to-government relationships, and the BLM has a positive working relationship with the tribes in the area.

In western Oregon, the BLM currently manages roughly 2.2 million acres of Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands under the O&C Lands Act 1937. Under the Act, 18 O&C counties receive yearly payments equal to 50 percent of receipts from timber harvests on public lands in these counties. Since 2000, the BLM has made payments to the 18 O&C counties based on the authorities provided for in the Secure Rural Schools Act, which has been reauthorized through FY 2016. The BLM's FY 2016 Budget request also includes a proposal for a five-year reauthorization of the Act.

S. 814

S. 814 would provide that seven tracts comprising approximately 14,804 acres of BLM-managed lands be held in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (the Tribes). The bill directs all right, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribes.

These parcels are located in western Oregon's Coos, Douglas, Benton, and Lane Counties, and include tracts such as the Coos Head, Talbot Allotment, and Umpqua Eden parcels, which are of particular cultural significance to the Tribes, as well as areas such as the Lower Smith River and Tioga tracts, managed for timber production.

While the transfer would be subject to valid existing rights, the BLM would like to continue to work with the sponsor on access concerns on certain parcels. S. 814 includes language to address the BLM's concerns about an earlier version of the legislation by honoring existing reciprocal right-of-way agreements and providing for administrative access by the BLM. However, we note that under the bill, the public would lose access to certain recreational trails and to the Hult Reservoir Recreation Area.

S. 814 also includes lands identified for transfer that were acquired with funding from the Land and Water Conservation Fund (LWCF) Act of 1965, which requires that these lands remain available in perpetuity for the use and enjoyment of the public. The BLM would like to work with the sponsor to ensure consistency with the LWCF Act.

The BLM notes that the lands identified for transfer in S. 814 contain critical habitat for the northern spotted owl and marbled murrelet. We note that if these lands are held in trust, the BLM will not be able to complete its land management objectives for these lands related to the recovery of these species.

S. 815

S. 815 would provide for approximately 17,519 acres of BLM-managed land in Douglas County, Oregon, to be held in trust for the benefit of the Cow Creek Band of Umpqua Tribe of Indians (the Tribe). The bill directs all rights, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribe. The lands identified for transfer would be used to restore and expand the historic and economic base for the Tribe in southwestern Oregon. The parcels are scattered and interspersed with private lands, and include many areas popular with hunters, anglers, and campers.

While the transfer would be subject to valid existing rights, the BLM has access concerns related to some parcels. The BLM recommends the bill be amended to include similar language to S. 814 in Section 5(d) honoring existing reciprocal right-of-way agreements and administrative access by the BLM.

The BLM suggests that corresponding language from S. 814 Section 5(e) be inserted into S. 815 to ensure that land taken into trust under S. 815 would not be subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976.

The lands proposed for transfer in S. 815 also include populations of the Federally threatened Kincaid's lupine and critical habitat for the northern spotted owl. We note that if these lands are held in trust, the BLM will not be able to complete its land management objectives for these lands related to the recovery of these species. The identified parcels also include numerous sites of cultural and historical importance. The BLM would like to work with the sponsor to clarify language related to the protection of wildlife and cultural resources.

O&C FORESTRY

Because many of the lands to be taken into trust by both S. 814 and S. 815 have been identified for potential future timber sales, the BLM believes that the transfer of these lands would reduce the quantities of timber that could be offered in future timber sales, resulting in a potential reduction of timber revenues to the United States and to the O&C counties.

Under the bills, the BLM would be required to identify and reclassify public domain lands as O&C lands to avoid a net loss to the acreage of O&C lands. The BLM is concerned that there are insufficient public domain lands of comparable condition, in the vicinity of the O&C lands to

meet this objective. The BLM would like to continue to work with the sponsor and the Committee on this issue.

The Draft Western Oregon Resource Management Plan/Environmental Impact Statement (Draft EIS) was released on April 24, 2015. The Draft EIS does not analyze the impacts of this transfer in any of the alternatives. The BLM is concerned that if these bills became law, there may not be sufficient time to address these transfers and their impact to resources and uses in the Final EIS. The Final EIS Record of Decision is scheduled to be signed in spring 2016.

The BLM also recognizes that timeframes to complete cadastral surveys required by both bills are longer than in previous versions, giving the BLM up to 1 year to complete the surveys of the boundaries of the transfer. However, the BLM is still concerned with being able to meet this requirement and would like to continue to work with the sponsor on a timeline that would add flexibility to the survey requirements.

CONCLUSION

The Department of the Interior welcomes opportunities to work with Congress on the conveyance of lands into trust status and supports the goals of S. 814 and S. 815. We look forward to working with the sponsor and the Committee to address the various issues we have outlined in this testimony, as well as other minor technical issues.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

COQUILLE RESTORATION ACT

Public Law 101-42, as amended

* * * * *

SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.

* * * * *

(d) CREATION OF THE COQUILLE FOREST.—

* * * * *

[(5) MANAGEMENT.—The Secretary of Interior, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act, and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of In-

dian Trust lands and shall distribute revenues in accord with Public Law 101-630, 25 U.S.C. 3107.

[(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from Federal lands.

[(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.]

(5) *MANAGEMENT.*—

(A) *IN GENERAL.*—*Subject to subparagraph (B), the Secretary, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest in accordance with the laws pertaining to the management of Indian trust land.*

(B) *ADMINISTRATION.*—

(i) *UNPROCESSED LOGS.*—*Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign nations that apply to unprocessed logs harvested from Federal land.*

(ii) *SALES OF TIMBER.*—*Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered, and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.*

* * * * *

[(9) *JURISDICTION.*—

[(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The Court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

[(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon and the Tribe arising out of claims of breach of the MOA.

[(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.]

[(10)] (9) *STATE REGULATORY AND CIVIL JURISDICTION.*—In addition to the jurisdiction described in paragraph 7 of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

(A) management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities; *Provided*, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands;

(B) allocation and administration of water rights, appropriation of water and use of water;

(C) regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation;

(D) fills and removals from waters of the State, as defined in Oregon law;

(E) protection and management of the State's proprietary interests in the beds and banks of navigable waterways;

(F) regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits;

(G) regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances;

(H) regulation of the use of herbicides and pesticides; and

(I) enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

[(11)] (10) SAVINGS CLAUSE, STATE AUTHORITY.—

(A) Nothing in this subsection shall be construed to grant tribal authority over private or State-owned lands.

(B) To the extent that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the tribe's authority to do so under such law.

(E) Unless and except to the extent that the tribe has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in subparagraph 10 of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as

otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe may exercise such jurisdiction as its agreed upon.

[(12)] (11) In the event of a conflict between Federal and State law under this subsection, Federal law shall control.

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