

106TH CONGRESS
2D SESSION

H. R. 5322

To provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2000

Mr. LEWIS of California (for himself, Mrs. BONO, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Timbisha Shoshone
5 Homeland Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Since time immemorial, the Timbisha Sho-
9 shone Tribe has lived in portions of California and

1 Nevada. The Tribe's ancestral homeland includes the
2 area that now comprises Death Valley National Park
3 and other areas of California and Nevada now ad-
4 ministered by the Bureau of Land Management.

5 (2) Since 1936, the Tribe has lived and gov-
6 erned the affairs of the Tribe on approximately 40
7 acres of land near Furnace Creek in the Park.

8 (3) The Tribe achieved Federal recognition in
9 1983 but does not have a land base within the
10 Tribe's ancestral homeland.

11 (4) Since the Tribe commenced use and occu-
12 pancy of the Furnace Creek area, the Tribe's mem-
13 bership has grown. Tribal members have a desire
14 and need for housing, government and administra-
15 tive facilities, cultural facilities, and sustainable eco-
16 nomic development to provide decent, safe, and
17 healthy conditions for themselves and their families.

18 (5) The interests of both the Tribe and the Na-
19 tional Park Service would be enhanced by recog-
20 nizing their coexistence on the same land and by es-
21 tablishing partnerships for compatible land uses and
22 for the interpretation of the Tribe's history and cul-
23 ture for visitors to the Park.

24 (6) The interests of both the Tribe and the
25 United States would be enhanced by the establish-

1 ment of a land base for the Tribe and by further de-
2 lineation of the rights and obligations of each with
3 respect to the Furnace Creek area and to the Park
4 as a whole.

5 **SEC. 3. PURPOSES.**

6 Consistent with the recommendations of the report
7 required by section 705(b) of the California Desert Protec-
8 tion Act of 1994 (Public Law 103–433; 108 Stat. 4498),
9 the purposes of this Act are—

10 (1) to provide in trust to the Tribe land on
11 which the Tribe can live permanently and govern the
12 Tribe’s affairs in a modern community within the
13 ancestral homeland of the Tribe outside and within
14 the Park;

15 (2) to formally recognize the contributions by
16 the Tribe to the history, culture, and ecology of the
17 Park and surrounding area;

18 (3) to ensure that the resources within the Park
19 are protected and enhanced by—

20 (A) cooperative activities within the Tribe’s
21 ancestral homeland; and

22 (B) partnerships between the Tribe and
23 the National Park Service and partnerships in-
24 volving the Bureau of Land Management;

1 (4) to ensure that such activities are not in
2 derogation of the purposes and values for which the
3 Park was established;

4 (5) to provide opportunities for a richer visitor
5 experience at the Park through direct interactions
6 between visitors and the Tribe including guided
7 tours, interpretation, and the establishment of a
8 tribal museum and cultural center;

9 (6) to provide appropriate opportunities for eco-
10 nomicallly viable and ecologically sustainable visitor-
11 related development, by the Tribe within the Park,
12 that is not in derogation of the purposes and values
13 for which the Park was established; and

14 (7) to provide trust lands for the Tribe in 4
15 separate parcels of land that is now managed by the
16 Bureau of Land Management and authorize the pur-
17 chase of 2 parcels now held in private ownership to
18 be taken into trust for the Tribe.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **PARK.**—The term “Park” means Death
22 Valley National Park, including any additions to
23 that Park.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior or the designee of the
3 Secretary.

4 (3) TRIBAL.—The term “tribal” means of or
5 pertaining to the Tribe.

6 (4) TRIBE.—The term “Tribe” means the
7 Timbisha Shoshone Tribe, a tribe of American Indi-
8 ans recognized by the United States pursuant to
9 part 83 of title 25, Code of Federal Regulations (or
10 any corresponding similar regulation or ruling).

11 (5) TRUST LANDS.—The term “trust lands”
12 means those lands taken into trust pursuant to this
13 Act.

14 **SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE TIMBISHA**
15 **SHOSHONE HOMELAND.**

16 (a) IN GENERAL.—Subject to valid existing rights
17 (existing on the date of enactment of this Act), all right,
18 title, and interest of the United States in and to the prop-
19 erty, including improvements and appurtenances, de-
20 scribed in subsection (b) are declared to be held in trust
21 by the United States for the benefit of the Tribe. All maps
22 referred to in subsection (b) shall be on file and available
23 for public inspection in the appropriate offices of the Na-
24 tional Park Service and the Bureau of Land Management.

1 (b) PARK LANDS AND BUREAU OF LAND MANAGE-
2 MENT LANDS DESCRIBED.—

3 (1) IN GENERAL.—The following lands and
4 water shall be held in trust for the Tribe pursuant
5 to subsection (a):

6 (A) Furnace Creek, Death Valley National
7 Park, California, an area of 313.99 acres for
8 community development, residential develop-
9 ment, historic restoration, and visitor-related
10 economic development, depicted as Tract 37 on
11 the map of Township 27 North, Range 1 East,
12 of the San Bernardino Meridian, California,
13 numbered Map #1 and dated December 2,
14 1999, together with 92 acre feet per annum of
15 surface and ground water for the purposes as-
16 sociated with the transfer of such lands. This
17 area shall include a 25-acre, nondevelopment
18 zone at the north end of the area and an Adobe
19 Restoration zone containing several historic
20 adobe homes, which shall be managed by the
21 Tribe as a tribal historic district.

22 (B) Death Valley Junction, California, an
23 area of approximately 1,000 acres, as generally
24 depicted on the map entitled “Death Valley
25 Junction, California”, numbered Map #2 and

1 dated April 12, 2000, together with 15.1 acre
2 feet per annum of ground water for the pur-
3 poses associated with the transfer of such
4 lands.

5 (C)(i) Centennial, California, an area of
6 approximately 640 acres, as generally depicted
7 on the map entitled “Centennial, California”,
8 numbered Map #3 and dated April 12, 2000,
9 together with an amount of ground water not to
10 exceed 10 acre feet per annum for the purposes
11 associated with the transfer of such lands.

12 (ii) If the Secretary determines that there
13 is insufficient ground water available on the
14 lands described in clause (i) to satisfy the
15 Tribe’s right to ground water to fulfill the pur-
16 poses associated with the transfer of such
17 lands, then the Tribe and the Secretary shall,
18 within 2 years of such determination, identify
19 approximately 640 acres of land that are ad-
20 ministered by the Bureau of Land Management
21 in that portion of Inyo County, California, to
22 the north and east of the China Lake Naval
23 Weapons Center, to be a mutually agreed upon
24 substitute for the lands described in clause (i).
25 If the Secretary determines that sufficient

1 water is available to fulfill the purposes associ-
2 ated with the transfer of the lands described in
3 the preceding sentence, then the Tribe shall re-
4 quest that the Secretary accept such lands into
5 trust for the benefit of the Timbisha Shoshone
6 Tribe, and the Secretary shall accept such
7 lands, together with an amount of water not to
8 exceed 10 acre feet per annum, into trust for
9 the Tribe as a substitute for the lands described
10 in clause (i).

11 (D) Scotty's Junction, Nevada, an area of
12 approximately 2,800 acres, as generally de-
13 picted on the map entitled "Scotty's Junction,
14 Nevada", numbered Map #4 and dated April
15 12, 2000, together with 375.5 acre feet per
16 annum of ground water for the purposes associ-
17 ated with the transfer of such lands.

18 (E) Lida, Nevada, Community Parcel, an
19 area of approximately 3,000 acres, as generally
20 depicted on the map entitled "Lida, Nevada,
21 Community Parcel", numbered Map #5 and
22 dated April 12, 2000, together with 14.7 acre
23 feet per annum of ground water for the pur-
24 poses associated with the transfer of such
25 lands.

1 (2) WATER RIGHTS.—The priority date of the
2 Federal water rights described in subparagraphs (A)
3 through (E) of paragraph (1) shall be the date of
4 enactment of this Act, and such Federal water
5 rights shall be junior to Federal and State water
6 rights existing on such date of enactment. Such
7 Federal water rights shall not be subject to relin-
8 quishment, forfeiture, or abandonment.

9 (3) LIMITATIONS ON FURNACE CREEK AREA
10 DEVELOPMENT.—

11 (A) DEVELOPMENT.—Recognizing the mu-
12 tual interests and responsibilities of the Tribe
13 and the National Park Service in and for the
14 conservation and protection of the resources in
15 the area described in paragraph (1), develop-
16 ment in the area shall be limited to—

17 (i) purposes of community and resi-
18 dential development—

19 (I) a maximum of 50 single-fam-
20 ily residences; and

21 (II) a tribal community center
22 with space for tribal offices, recreation
23 facilities, a multipurpose room and
24 kitchen, and senior and youth facili-
25 ties;

1 (ii) for purposes of economic
2 development—

3 (I) a small-to-moderate desert
4 inn; and

5 (II) a tribal museum and cultural
6 center with a gift shop; and

7 (iii) the infrastructure necessary to
8 support the level of development described
9 in clauses (i) and (ii).

10 (B) EXCEPTION.—Notwithstanding the
11 provisions of subparagraph (A)(ii), the National
12 Park Service and the Tribe are authorized to
13 negotiate mutually agreed upon, visitor-related
14 economic development in lieu of the develop-
15 ment set forth in that subparagraph if such al-
16 ternative development will have no greater envi-
17 ronmental impact than the development set
18 forth in that subparagraph.

19 (C) RIGHT-OF-WAY.—The Tribe shall have
20 a right-of-way for ingress and egress on High-
21 way 190 in California.

22 (4) LIMITATIONS ON IMPACT ON MINING
23 CLAIMS.—Nothing in this Act shall be construed as
24 terminating any valid mining claim existing on the
25 date of enactment of this Act on the land described

1 in paragraph (1)(E). Any person with such an exist-
2 ing mining claim shall have all the rights incident to
3 mining claims, including the rights of ingress and
4 egress on the land described in paragraph (1)(E).
5 Any person with such an existing mining claim shall
6 have the right to occupy and use so much of the sur-
7 face of the land as is required for all purposes rea-
8 sonably necessary to mine and remove the minerals
9 from the land, including the removal of timber for
10 mining purposes. Such a mining claim shall termi-
11 nate when the claim is determined to be invalid or
12 is abandoned.

13 (c) LEGAL DESCRIPTIONS.—Not later than 1 year
14 after the date of enactment of this Act, the Secretary shall
15 file a legal description of the areas described in subsection
16 (b) with the Committee on Resources of the House of Rep-
17 resentatives and with the Committee on Indian Affairs
18 and the Committee on Energy and Natural Resources of
19 the Senate. Such legal description shall have the same
20 force and effect as if the information contained in the de-
21 scription were included in that subsection except that the
22 Secretary may correct clerical and typographical errors in
23 such legal description and in the maps referred to in the
24 legal description. The legal description shall be on file and

1 available for public inspection in the offices of the Na-
2 tional Park Service and the Bureau of Land Management.

3 (d) ADDITIONAL TRUST RESOURCES.—The Sec-
4 retary may purchase from willing sellers the following par-
5 cels and appurtenant water rights, or the water rights sep-
6 arately, to be taken into trust for the Tribe:

7 (1) Indian Rancheria Site, California, an area
8 of approximately 120 acres, as generally depicted on
9 the map entitled “Indian Rancheria Site, California”
10 numbered Map #6 and dated December 3, 1999.

11 (2) Lida Ranch, Nevada, an area of approxi-
12 mately 2,340 acres, as generally depicted on the
13 map entitled “Lida Ranch” numbered Map #7 and
14 dated April 6, 2000, or another parcel mutually
15 agreed upon by the Secretary and the Tribe.

16 (e) SPECIAL USE AREAS.—

17 (1) IN GENERAL.—The areas described in this
18 subsection shall be nonexclusive special use areas for
19 the Tribe, subject to other Federal law. Members of
20 the Tribe are authorized to use these areas for low
21 impact, ecologically sustainable, traditional practices
22 pursuant to a jointly established management plan
23 mutually agreed upon by the Tribe, and by the Na-
24 tional Park Service or the Bureau of Land Manage-
25 ment, as appropriate. All maps referred to in para-

1 graph (4) shall be on file and available for public in-
2 spection in the offices of the National Park Service
3 and Bureau of Land Management.

4 (2) RECOGNITION OF THE HISTORY AND CUL-
5 TURE OF THE TRIBE.—In the special use areas, in
6 recognition of the significant contributions the Tribe
7 has made to the history, ecology, and culture of the
8 Park and to ensure that the visitor experience in the
9 Park will be enhanced by the increased and contin-
10 ued presence of the Tribe, the Secretary shall permit
11 the Tribe’s continued use of Park resources for tra-
12 ditional tribal purposes, practices, and activities.

13 (3) RESOURCE USE BY THE TRIBE.—In the
14 special use areas, any use of Park resources by the
15 Tribe for traditional purposes, practices, and activi-
16 ties shall not include the taking of wildlife and shall
17 not be in derogation of purposes and values for
18 which the Park was established.

19 (4) SPECIFIC AREAS.—The following areas are
20 designated special use areas pursuant to paragraph
21 (1):

22 (A) MESQUITE USE AREA.—The area gen-
23 erally depicted on the map entitled “Mesquite
24 Use Area” numbered Map #8 and dated April
25 12, 2000. The Tribe may use this area for

1 processing mesquite using traditional plant
2 management techniques such as thinning, prun-
3 ing, harvesting, removing excess sand, and re-
4 moving exotic species. The National Park Serv-
5 ice may limit and condition, but not prohibit
6 entirely, public use of this area or parts of this
7 area, in consultation with the Tribe. This area
8 shall be managed in accordance with the jointly
9 established management plan referred to in
10 paragraph (1).

11 (B) BUFFER AREA.—An area of approxi-
12 mately 1,500 acres, as generally depicted on the
13 map entitled “Buffer Area” numbered Map #8
14 and dated April 12, 2000. The National Park
15 Service shall restrict visitor use of this area to
16 protect the privacy of the Tribe and to provide
17 an opportunity for the Tribe to conduct commu-
18 nity affairs without undue disruption from the
19 public.

20 (C) TIMBISHA SHOSHONE NATURAL AND
21 CULTURAL PRESERVATION AREA.—An area that
22 primarily consists of Park lands and also a
23 small portion of Bureau of Land Management
24 land in California, as generally depicted on the
25 map entitled “Timbisha Shoshone Natural and

1 Cultural Preservation Area” numbered Map #9
2 and dated April 12, 2000.

3 (5) ADDITIONAL PROVISIONS.—With respect to
4 the Timbisha Shoshone Natural and Cultural Pres-
5 ervation Area designated in paragraph (4)(C)—

6 (A) the Tribe may establish and maintain
7 a tribal resource management field office, ga-
8 rage, and storage area, all within the area of
9 the existing ranger station at Wildrose (existing
10 as of the date of enactment of this Act);

11 (B) the Tribe also may use traditional
12 camps for tribal members at Wildrose and
13 Hunter Mountain in accordance with the jointly
14 established management plan referred to in
15 paragraph (1);

16 (C) the area shall be depicted on maps of
17 the Park and Bureau of Land Management
18 that are provided for general visitor use;

19 (D) the National Park Service and the Bu-
20 reau of Land Management shall accommodate
21 access by the Tribe to and use by the Tribe
22 of—

23 (i) the area (including portions de-
24 scribed in subparagraph (E)) for tradi-
25 tional cultural and religious activities, in a

1 manner consistent with the purpose and
2 intent of Public Law 95–341 (commonly
3 known as the “American Indian Religious
4 Freedom Act”) (42 U.S.C. 1996 et seq.);
5 and

6 (ii) areas designated as wilderness (in-
7 cluding portions described in subparagraph
8 (E)), in a manner consistent with the pur-
9 pose and intent of the Wilderness Act (16
10 U.S.C. 1131 et seq.); and

11 (E)(i) on the request of the Tribe, the Na-
12 tional Park Service and the Bureau of Land
13 Management shall temporarily close to the gen-
14 eral public, 1 or more specific portions of the
15 area in order to protect the privacy of tribal
16 members engaging in traditional cultural and
17 religious activities in those portions; and

18 (ii) any such closure shall be made in a
19 manner that affects the smallest practicable
20 area for the minimum period necessary for the
21 purposes described in clause (i).

22 (f) ACCESS AND USE.—Members of the Tribe shall
23 have the right to enter and use the Park without payment
24 of any fee for admission into the Park.

1 (g) ADMINISTRATION.—The trust lands shall con-
2 stitute the Timbisha Shoshone Reservation and shall be
3 administered pursuant to the laws and regulations appli-
4 cable to other Indian trust lands, except as otherwise pro-
5 vided in this Act.

6 **SEC. 6. IMPLEMENTATION PROCESS.**

7 (a) GOVERNMENT-TO-GOVERNMENT AGREE-
8 MENTS.—In order to fulfill the purposes of this Act and
9 to establish cooperative partnerships for purposes of this
10 Act, the National Park Service, the Bureau of Land Man-
11 agement, and the Tribe shall enter into government-to-
12 government consultations and shall develop protocols to
13 review planned development in the Park. The National
14 Park Service and the Bureau of Land Management are
15 authorized to enter into cooperative agreements with the
16 Tribe for the purpose of providing training on the inter-
17 pretation, management, protection, and preservation of
18 the natural and cultural resources of the areas designated
19 for special uses by the Tribe in section 5(e)(4).

20 (b) STANDARDS.—The National Park Service and the
21 Tribe shall develop mutually agreed upon standards for
22 size, impact, and design for use in planning, resource pro-
23 tection, and development of the Furnace Creek area and
24 for the facilities at Wildrose. The standards shall be based
25 on standards for recognized best practices for environ-

1 mental sustainability and shall not be less restrictive than
2 the environmental standards applied within the National
3 Park System at any given time. Development in the area
4 shall be conducted in a manner consistent with the stand-
5 ards, which shall be reviewed periodically and revised as
6 necessary.

7 (c) WATER MONITORING.—The Secretary and the
8 Tribe shall develop mutually agreed upon standards for
9 a water monitoring system to assess the effects of water
10 use at Scotty’s Junction and at Death Valley Junction on
11 the tribal trust lands described in subparagraphs (A), (B),
12 and (D) of section 5(b)(1), and on the Park. Water moni-
13 toring shall be conducted in a manner that is consistent
14 with such standards, which shall be reviewed periodically
15 and revised as necessary.

16 **SEC. 7. MISCELLANEOUS PROVISIONS.**

17 (a) TRIBAL EMPLOYMENT.—In employing individuals
18 to perform any construction, maintenance, interpretation,
19 or other service in the Park, the Secretary shall, insofar
20 as practicable, give first preference to qualified members
21 of the Tribe.

22 (b) GAMING.—Class II gaming and class III gaming
23 as defined and regulated by the Indian Gaming Regu-
24 latory Act (25 U.S.C. 2701 et seq.) shall be prohibited
25 on trust lands within the Park.

1 (c) INITIAL RESERVATION.—Lands taken into trust
2 for the Tribe pursuant to section 5, except for the Park
3 land described in subsections (b)(1)(A) and (d)(1) of such
4 section, shall be considered to be the Tribe’s initial res-
5 ervation for purposes of section 20(b)(1)(B)(ii) of the In-
6 dian Gaming Regulatory Act (25 U.S.C.
7 2719(b)(1)(B)(ii)).

8 (d) TRIBAL JURISDICTION OVER TRUST LANDS.—All
9 trust lands that are transferred under this Act and located
10 within California shall be exempt from section 1162 of
11 title 18, United States Code, and section 1360 of title 28,
12 United States Code, upon the certification by the Sec-
13 retary, after consultation with the Attorney General, that
14 the law enforcement system in place for such lands will
15 be adequate to provide for the public safety and the public
16 interest, except that no such certification may take effect
17 until the expiration of the 3-year period beginning on the
18 date of enactment of this Act.

○