

Calendar No. 1081

110TH CONGRESS
2D SESSION**H. R. 2963****[Report No. 110-503]**

IN THE SENATE OF THE UNITED STATES

JULY 31, 2007

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Read twice and referred to the Committee on Indian Affairs

SEPTEMBER 25 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. DORGAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

AN ACT

To transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pechanga Band of
3 Luiseno Mission Indians Land Transfer Act of 2007”.

4 **SEC. 2. TRANSFER OF LAND IN TRUST FOR PECHANGA**
5 **BAND OF LUISENO MISSION INDIANS.**

6 (a) TRANSFER AND ADMINISTRATION.—

7 (1) TRANSFER.—Effective on the date of the
8 enactment of this Act and subject to valid existing
9 rights, all right, title, and interest of the United
10 States in and to the Federal lands described in sub-
11 section (b) (including all improvements thereon, ap-
12 purtenances thereto, and rights to all minerals
13 thereon or therein, including oil and gas, water, and
14 related resources) shall be held by the United States
15 in trust for the Pechanga Band of Luiseno Mission
16 Indians, a federally recognized Indian tribe. Such
17 transfer shall not include the 12.82 acres of lands
18 more or less, including the facilities, improvements,
19 and appurtenances associated with the existing 230
20 kV transmission line in San Diego County and its
21 300 foot corridor, more particularly described as a
22 portion of sec. 6, T. 9 S., R. 2 W., San Bernardino
23 Base and Meridian, which shall be sold by the Bu-
24 reau of Land Management for fair market value to
25 San Diego Gas & Electric Company not later than
26 30 days after the completion of the cadastral survey

1 described in subsection (c) and the appraisal de-
2 scribed in subsection (d).

3 (2) ADMINISTRATION.—The land transferred
4 under paragraph (1) shall be part of the Pechanga
5 Indian Reservation and administered in accordance
6 with—

7 (A) the laws and regulations generally ap-
8 plicable to property held in trust by the United
9 States for an Indian tribe; and

10 (B) a memorandum of understanding en-
11 tered into between the Pechanga Band of
12 Luiseno Mission Indians ~~and the United States~~
13 ~~Fish and Wildlife Service~~, *the Bureau of Land*
14 *Management, and the United States Fish and*
15 *Wildlife Service on November 11, 2005, which*
16 *shall remain in effect until the date on which the*
17 *Western Riverside County Multiple Species*
18 *Habitat Conservation Plan expires.*

19 (3) NOTIFICATION.—*At least 45 days before ter-*
20 *minating the memorandum of understanding entered*
21 *into under paragraph (2)(B), the Director of the Bu-*
22 *reau of Land Management, the Director of the United*
23 *States Fish and Wildlife Service, or the Pechanga*
24 *Band of Luiseno Mission Indians, as applicable, shall*
25 *submit notice of the termination to—*

1 (A) the Committee on Natural Resources of
2 the House of Representatives;

3 (B) the Committee on Indian Affairs of the
4 Senate;

5 (C) the Assistant Secretary for Indian Af-
6 fairs; and

7 (D) the members of Congress representing
8 the area subject to the memorandum of under-
9 standing.

10 (4) *TERMINATION OR VIOLATION OF THE MEMO-*
11 *RANDUM OF UNDERSTANDING.*—*The Director of the*
12 *Bureau of Land Management and the Pechanga Band*
13 *of Luiseno Mission Indians shall submit to Congress*
14 *notice of the termination or a violation of the memo-*
15 *randum of understanding entered into under para-*
16 *graph (2)(B) unless the purpose for the termination*
17 *or violation is the expiration or cancellation of the*
18 *Western Riverside County Multiple Species Habitat*
19 *Conservation Plan.*

20 (b) *DESCRIPTION OF LAND.*—The lands referred to
21 in subsection (a) consist of approximately 1,178 acres in
22 Riverside County, California, and San Diego County, Cali-
23 fornia, as referenced on the map titled, “H.R. 28, the
24 Pechanga Land Transfer Act” and dated ~~January 12~~ *May*
25 *2*, 2007, which, before the transfer under such subsection,

1 were administered by the Bureau of Land Management
2 and are more particularly described as follows:

3 (1) Sections 24, 29, 31, and 32 of township 8
4 south, range 2 west, San Bernardino base and me-
5 ridian.

6 (2) Section 6 of township 9 south, range 2
7 west, lots 2, 3, 5 and 6, San Bernardino Base and
8 Meridian.

9 (3) Mineral Survey 3540, section 22 of town-
10 ship 5 south, range 4 west, San Bernardino base
11 and meridian.

12 (c) SURVEY.—Not later than 180 days after the date
13 of the enactment of this Act, the Office of Cadastral Sur-
14 vey of the Bureau of Land Management shall complete
15 a survey of the lands transferred and to be sold under
16 subsection (a) for the purpose of establishing the bound-
17 aries of the lands.

18 (d) CONVEYANCE OF UTILITY CORRIDOR.—

19 (1) IN GENERAL.—The Secretary shall convey
20 to the San Diego Gas & Electric Company all right,
21 title, and interest of the United States in and to the
22 utility corridor upon—

23 (A) the completion of the survey required
24 under subsection (c);

1 (B) the receipt by the Secretary of all
2 rents and other fees that may be due to the
3 United States for use of the utility corridor, if
4 any; and

5 (C) the receipt of payment by United
6 States from the San Diego Gas & Electric Com-
7 pany of consideration in an amount equal to the
8 fair market value of the utility corridor, as de-
9 termined by an appraisal conducted under para-
10 graph (2).

11 (2) APPRAISAL.—

12 (A) IN GENERAL.—Not later than 90 days
13 after the date on which the survey of the utility
14 corridor is completed under subsection (c), the
15 Secretary shall complete an appraisal of the
16 utility corridor.

17 (B) APPLICABLE LAW.—The appraisal
18 under subparagraph (A) shall be conducted in
19 accordance with—

20 (i) the Uniform Appraisal Standards
21 for Federal Land Acquisitions; and

22 (ii) the Uniform Standards of Profes-
23 sional Appraisal Practice.

24 (3) COSTS.—The San Diego Gas & Electric
25 Company shall pay the costs of carrying out the con-

1 veyance of the utility corridor under paragraph (1),
2 including any associated survey and appraisal costs.

3 (4) DISPOSITION OF PROCEEDS.—The Sec-
4 retary shall deposit any amounts received under
5 paragraph (1)(C) of this section in the Federal Land
6 Disposal Account established under section 206(a)
7 of the Federal Land Transaction Facilitation Act
8 (43 U.S.C. 2305(a)).

9 (e) MAP ON FILE.—The map referred to in sub-
10 section (b) shall be on file in the appropriate offices of
11 the Bureau of Land Management.

12 (f) LEGAL DESCRIPTIONS.—

13 (1) PUBLICATION.—On approval of the survey
14 completed under subsection (c) by the duly elected
15 tribal council of the Pechanga Band of Luiseno Mis-
16 sion Indians, the Secretary of the Interior shall pub-
17 lish in the Federal Register—

18 (A) a legal description of the boundary
19 lines; and

20 (B) legal description of the lands trans-
21 ferred under subsection (a).

22 (2) EFFECT.—Beginning on the date on which
23 the legal descriptions are published under paragraph
24 (1), such legal descriptions shall be the official legal

1 descriptions of the boundary lines and the lands
2 transferred under subsection (a).

3 (g) RULES OF CONSTRUCTION.—Nothing in this Act
4 shall—

5 (1) enlarge, impair, or otherwise affect any
6 right or claim of the Pechanga Band of Luiseno
7 Mission Indians to any land or interest in land that
8 is in existence before the date of the enactment of
9 this Act;

10 (2) affect any water right of the Pechanga
11 Band of Luiseno Mission Indians in existence before
12 the date of the enactment of this Act; or

13 (3) terminate any right-of-way or right-of-use
14 issued, granted, or permitted before the date of en-
15 actment of this Act.

16 (h) RESTRICTED USE OF TRANSFERRED LANDS.—

17 (1) IN GENERAL.—The lands transferred under
18 subsection (a) may be used only *as open space and*
19 *for the protection, preservation, and maintenance of*
20 *the archaeological, cultural, and wildlife resources*
21 *thereon.*

22 (2) NO ROADS.—There shall be no roads other
23 than for maintenance purposes constructed on the
24 lands transferred under subsection (a).

25 (3) *DEVELOPMENT PROHIBITED.*—

1 (A) *IN GENERAL.*—*There shall be no devel-*
2 *opment of infrastructure or buildings on the*
3 *land transferred under subsection (a).*

4 (B) *OPEN SPACE.*—*The land transferred*
5 *under subsection (a) shall be—*

6 (i) *maintained as open space; and*

7 (ii) *used only for—*

8 (I) *purposes consistent with the*
9 *maintenance of the land as open space;*
10 *and*

11 (II) *the protection, preservation,*
12 *and maintenance of the archaeological,*
13 *cultural, and wildlife resources on the*
14 *land transferred.*

15 (C) *EFFECT.*—*Nothing in this paragraph*
16 *prohibits the construction or maintenance of*
17 *utilities or structures that are—*

18 (i) *consistent with the maintenance of*
19 *the land transferred under subsection (a) as*
20 *open space; and*

21 (ii) *constructed for the protection, pres-*
22 *ervation, and maintenance of the archae-*
23 *ological, cultural, and wildlife resources on*
24 *the land transferred.*

1 (4) *GAMING PROHIBITED.*—*The Pechanga Band*
2 *of Luiseno Mission Indians may not conduct, on any*
3 *land acquired by the Pechanga Band of Luiseno Mis-*
4 *sion Indians pursuant to this Act, gaming activities*
5 *or activities conducted in conjunction with the oper-*
6 *ation of a casino—*

7 (A) *as a matter of claimed inherent author-*
8 *ity; or*

9 (B) *under any Federal law (including the*
10 *Indian Gaming Regulatory Act (25 U.S.C. 2701*
11 *et seq.) (including any regulations promulgated*
12 *by the Secretary or the National Indian Gaming*
13 *Commission under that Act)).*

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