

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2040

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## AN ACT

To exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, 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 “Blackfoot River Land  
3 Exchange Act of 2014”.

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the Shoshone-Bannock Tribes, a federally  
7 recognized Indian tribe with tribal headquarters at  
8 Fort Hall, Idaho—

9 (A) adopted a tribal constitution and by-  
10 laws on March 31, 1936, that were approved by  
11 the Secretary of the Interior on April 30, 1936,  
12 pursuant to the Act of June 18, 1934 (25  
13 U.S.C. 461 et seq.) (commonly known as the  
14 “Indian Reorganization Act”);

15 (B) has entered into various treaties with  
16 the United States, including the Second Treaty  
17 of Fort Bridger, executed on July 3, 1868; and

18 (C) has maintained a continuous govern-  
19 ment-to-government relationship with the  
20 United States since the earliest years of the  
21 Union;

22 (2)(A) in 1867, President Andrew Johnson des-  
23 igned by Executive order the Fort Hall Reserva-  
24 tion for various bands of Shoshone and Bannock In-  
25 dians;

1 (B) the Reservation is located near the cities of  
2 Blackfoot and Pocatello in southeastern Idaho; and

3 (C) article 4 of the Second Treaty of Fort  
4 Bridger secured the Reservation as a “permanent  
5 home” for the Shoshone-Bannock Tribes;

6 (3)(A) according to the Executive order referred  
7 to in paragraph (2)(A), the Blackfoot River, as the  
8 river existed in its natural state—

9 (i) is the northern boundary of the Res-  
10 ervation; and

11 (ii) flows in a westerly direction along that  
12 northern boundary; and

13 (B) within the Reservation, land use in the  
14 River watershed is dominated by—

15 (i) rangeland;

16 (ii) dry and irrigated farming; and

17 (iii) residential development;

18 (4)(A) in 1964, the Corps of Engineers com-  
19 pleted a local flood protection project on the River—

20 (i) authorized by section 204 of the Flood  
21 Control Act of 1950 (64 Stat. 170); and

22 (ii) sponsored by the Blackfoot River Flood  
23 Control District No. 7;

1 (B) the project consisted of building levees, re-  
2 placing irrigation diversion structures, replacing  
3 bridges, and channel realignment; and

4 (C) the channel realignment portion of the  
5 project severed various parcels of land located con-  
6 tiguous to the River along the boundary of the Res-  
7 ervation, resulting in Indian land being located  
8 north of the Realigned River and non-Indian land  
9 being located south of the Realigned River;

10 (5) beginning in 1999, the Cadastral Survey  
11 Office of the Bureau of Land Management con-  
12 ducted surveys of—

13 (A) 25 parcels of Indian land; and

14 (B) 19 parcels of non-Indian land; and

15 (6) the enactment of this Act and separate  
16 agreements of the parties would represent a resolu-  
17 tion of the disputes described in subsection (b)(1)  
18 among—

19 (A) the Tribes;

20 (B) the allottees; and

21 (C) the non-Indian landowners.

22 (b) PURPOSES.—The purposes of this Act are—

23 (1) to resolve the land ownership and land use  
24 disputes resulting from realignment of the River by  
25 the Corps of Engineers during calendar year 1964

1 pursuant to the project described in subsection  
2 (a)(4)(A); and

3 (2) to achieve a final and fair solution to re-  
4 solve those disputes.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) ALLOTTEE.—The term “allottee” means an  
8 heir of an original allottee of the Reservation who  
9 owns an interest in a parcel of land that is—

10 (A) held in trust by the United States for  
11 the benefit of the allottee; and

12 (B) located north of the Realigned River  
13 within the exterior boundaries of the Reserva-  
14 tion.

15 (2) BLACKFOOT RIVER FLOOD CONTROL DIS-  
16 TRICT NO. 7.—The term “Blackfoot River Flood  
17 Control District No. 7” means the governmental  
18 subdivision in the State of Idaho, located at 75 East  
19 Judicial, Blackfoot, Idaho, that—

20 (A) is responsible for maintenance and re-  
21 pair of the Realigned River; and

22 (B) represents the non-Indian landowners  
23 relating to the resolution of the disputes de-  
24 scribed in section 2(b)(1) in accordance with  
25 this Act.

1           (3) INDIAN LAND.—The term “Indian land”  
2 means any parcel of land that is—

3           (A) held in trust by the United States for  
4 the benefit of the Tribes or the allottees;

5           (B) located north of the Realigned River;  
6 and

7           (C) identified in exhibit A of the survey of  
8 the Bureau of Land Management entitled “Sur-  
9 vey of the Blackfoot River of 2002 to 2005”,  
10 which is located at—

11           (i) the Fort Hall Indian Agency office  
12 of the Bureau of Indian Affairs; and

13           (ii) the Blackfoot River Flood Control  
14 District No. 7.

15           (4) NON-INDIAN LAND.—The term “non-Indian  
16 land” means any parcel of fee land that is—

17           (A) located south of the Realigned River;  
18 and

19           (B) identified in exhibit B, which is located  
20 at the areas described in clauses (i) and (ii) of  
21 paragraph (3)(C).

22           (5) NON-INDIAN LANDOWNER.—The term  
23 “non-Indian landowner” means any individual who  
24 holds fee title to non-Indian land and is represented

1 by the Blackfoot River Flood Control District No. 7  
2 for purposes of this Act.

3 (6) REALIGNED RIVER.—The term “Realigned  
4 River” means that portion of the River that was re-  
5 aligned by the Corps of Engineers during calendar  
6 year 1964 pursuant to the project described in sec-  
7 tion 2(a)(4)(A).

8 (7) RESERVATION.—The term “Reservation”  
9 means the Fort Hall Reservation established by Ex-  
10 ecutive order during calendar year 1867 and con-  
11 firmed by treaty during calendar year 1868.

12 (8) RIVER.—The term “River” means the  
13 Blackfoot River located in the State of Idaho.

14 (9) SECRETARY.—The term “Secretary” means  
15 the Secretary of the Interior.

16 (10) TRIBES.—The term “Tribes” means the  
17 Shoshone-Bannock Tribes.

18 **SEC. 4. RELEASE OF CLAIMS TO CERTAIN INDIAN AND NON-**

19 **INDIAN OWNED LANDS.**

20 (a) RELEASE OF CLAIMS.—Effective on the date of  
21 enactment of this Act—

22 (1) all existing and future claims with respect  
23 to the Indian land and the non-Indian land and all  
24 right, title, and interest that the Tribes, allottees,  
25 non-Indian landowners, and the Blackfoot River

1 Flood Control District No. 7 may have had to that  
2 land shall be extinguished;

3 (2) any interest of the Tribes, the allottees, or  
4 the United States, acting as trustee for the Tribes  
5 or allottees, in the Indian land shall be extinguished  
6 under section 2116 of the Revised Statutes (com-  
7 monly known as the “Indian Trade and Intercourse  
8 Act”) (25 U.S.C. 177); and

9 (3) to the extent any interest in non-Indian  
10 land transferred into trust pursuant to section 5 vio-  
11 lates section 2116 of the Revised Statutes (com-  
12 monly known as the “Indian Trade and Intercourse  
13 Act”) (25 U.S.C. 177), that transfer shall be valid,  
14 subject to the condition that the transfer is con-  
15 sistent with all other applicable Federal laws (includ-  
16 ing regulations).

17 (b) DOCUMENTATION.—The Secretary may execute  
18 and file any appropriate documents (including a plat or  
19 map of the transferred Indian land) that are suitable for  
20 filing with the Bingham County clerk or other appropriate  
21 county official, as the Secretary determines necessary to  
22 carry out this Act.



1 **SEC. 5. NON-INDIAN LAND TO BE PLACED INTO TRUST FOR**  
2 **TRIBES.**

3 Effective on the date of enactment of this Act, the  
4 non-Indian land shall be considered to be held in trust  
5 by the United States for the benefit of the Tribes.

6 **SEC. 6. TRUST LAND TO BE CONVERTED TO FEE LAND.**

7 (a) IN GENERAL.—As soon as practicable after the  
8 date of enactment of this Act, the Secretary shall transfer  
9 the Indian land to the Blackfoot River Flood Control Dis-  
10 trict No. 7 for use or sale in accordance with subsection  
11 (b).

12 (b) USE OF LAND.—

13 (1) IN GENERAL.—The Blackfoot River Flood  
14 Control District No. 7 shall use any proceeds from  
15 the sale of land described in subsection (a) according  
16 to the following priorities:

17 (A) To compensate, at fair market value,  
18 each non-Indian landowner for the net loss of  
19 land to that non-Indian landowner resulting  
20 from the implementation of this Act.

21 (B) To compensate the Blackfoot River  
22 Flood Control District No. 7 for any adminis-  
23 trative or other expenses relating to carrying  
24 out this Act.

25 (2) REMAINING LAND.—If any land remains to  
26 be conveyed or proceeds remain after the sale of the

1 land, the Blackfoot River Flood Control District No.  
2 7 may dispose of that remaining land or proceeds as  
3 the Blackfoot River Flood Control District No. 7 de-  
4 termines to be appropriate.

5 **SEC. 7. EFFECT ON ORIGINAL RESERVATION BOUNDARY.**

6 Nothing in this Act affects the original boundary of  
7 the Reservation, as established by Executive order during  
8 calendar year 1867 and confirmed by treaty during cal-  
9 endar year 1868.

10 **SEC. 8. EFFECT ON TRIBAL WATER RIGHTS.**

11 Nothing in this Act extinguishes or conveys any water  
12 right of the Tribes, as established in the agreement enti-  
13 tled “1990 Fort Hall Indian Water Rights Agreement”  
14 and ratified by section 4 of the Fort Hall Indian Water  
15 Rights Act of 1990 (Public Law 101–602; 104 Stat.  
16 3060).

17 **SEC. 9. EFFECT ON CERTAIN OBLIGATIONS.**

18 (a) IN GENERAL.—Except as provided in subsection  
19 (b), nothing in this Act affects the obligation of Blackfoot  
20 River Flood Control District No. 7 to maintain adequate  
21 rights-of-way for the operation and maintenance of the  
22 local flood protection projects described in section 2(a)(4)  
23 pursuant to agreements between the Blackfoot River  
24 Flood Control District No. 7 and the Corps of Engineers.

1 (b) RESTRICTION ON FEES.—Any land conveyed to  
2 the Tribes pursuant to this Act shall not be subject to  
3 fees assessed by Blackfoot River Flood Control District  
4 No. 7.

5 **SEC. 10. DISCLAIMERS REGARDING CLAIMS.**

6 Nothing in this Act—

7 (1) affects in any manner the sovereign claim  
8 of the State of Idaho to title in and to the beds and  
9 banks of the River under the equal footing doctrine  
10 of the Constitution of the United States;

11 (2) affects any action by the State of Idaho to  
12 establish the title described in paragraph (1) under  
13 section 2409a of title 28, United States Code (com-  
14 monly known as the “Quiet Title Act”);

15 (3) affects the ability of the Tribes or the  
16 United States to claim ownership of the beds and  
17 banks of the River; or

18 (4) extinguishes or conveys any water rights of  
19 non-Indian landowners or the claims of those land-

1 owners to water rights in the Snake River Basin Ad-  
2 judication.

Passed the Senate September 18, 2014.

Attest:

*Secretary.*



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