H. R. 3084

To restore Federal recognition to the Chinook Nation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Mr. BAIRD introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To restore Federal recognition to the Chinook Nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Chinook Nation Restoration Act”.

(b) FINDINGS.—Congress finds the following:

(1) The Chinook Nation made a significant contribution to the historic journey of Meriwether Lewis and William Clark to the Pacific Ocean by greeting the expedition and their company as well as trading with them throughout the winter of 1805–1806.
(2) The United States subsequently recognized the Chinook Nation as an Indian tribe in the Anson Dart (Tansy Point) Treaty of 1851, and the Isaac Stevens (Chehalis River) Treaty of 1855, but neither treaty was ratified, resulting in serious harm to the Chinook people.

(3) As a result of the failure of the United States to protect the Chinook Nation and people, the Chinooks lost their historic lands on the Columbia River, and a great number of them succumbed to poverty and disease in the 19th century.

(4) It was the intent of Congress in the Act of March 4, 1911 (36 Stat. 1345), to provide restitution to the Chinook people in the form of allotments of land on existing Indian reservations, which the Supreme Court of the United States upheld in Halbert v. United States (283 U.S. 753 (1931)).

(5) Congress named four of the five tribes of the Chinook Nation, the Lower Chinook, Wahkiakum, Cathlamet, and Clatsop, in the Western Oregon Termination Act of 1954, and this Act is the only basis for termination of the Federal relationship with the Tribe.

(6) The Chinook Nation has remained active on the Lower Columbia River and Willapa Bay in the
vicinity of the reservation area of the Tansy Point
Treaty and is well-known to neighboring tribes and
other communities.

(7) The Chinook people have survived and
maintained their language, Chinookwawa, and cul-
ture despite decades of neglect by the United States.

(8) With different Administrations disagreeing
about the legal status of the Chinook Nation, it is
time for Congress to restore the Chinook Nation to
Federal tribal status.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions
apply:

(1) MEMBER.—The term “member” means an
enrolled member of the Chinook Nation as of the
date of enactment of this Act, or an individual who
has been placed on the membership role in accord-
ance with this Act.

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

(3) TRIBE.—The term “Tribe” means the Chi-
nook Indian Nation, composed of the Lower Chi-
nook, Wahkiakum, Cathlamet, Clatsop, and Willapa
Tribes.
(4) STATE.—The term “State” means the State of Washington.

(5) STATE TERRITORIAL WATERS.—The term “State territorial waters” means all waters within the territorial limits of the State of Washington.

SEC. 3. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Chinook Indian Nation. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians, and nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.), that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its members.

SEC. 4. FEDERAL SERVICES AND BENEFITS.

(a) IN GENERAL.—The Tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all services and benefits provided by the Federal Government to federally recognized tribes without regard to the existence of a reservation for the Tribe or the location of the residence of any member on or near any Indian reservation.

(b) SERVICE AREA.—For purposes of the delivery of Federal services to enrolled members of the Tribe, the Tribe’s service area shall consist of Pacific, Wahkiakum,
Cowlitz, and Clark Counties, Washington, and Clatsop
and Columbia Counties, Oregon.

(c) CIVIL JURISDICTION.—Upon approval of the con-
stitution and bylaws pursuant to section 6 of this Act, the
Nation shall exercise jurisdiction over all its members who
reside within the service area located in the State in mat-
ters pursuant to the Indian Child Welfare Act of 1978
(25 U.S.C. 1901 et seq.) as if the members were residing
upon a reservation as defined in that Act.

SEC. 5. MEMBERSHIP.

Not later than 9 months after the date of the enact-
ment of this Act, the Tribe shall submit to the Secretary
a membership roll consisting of all individuals enrolled in
the Tribe.

SEC. 6. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 1 year after the
date of the enactment of this Act, the Tribe shall
conduct, by secret ballot, an election to adopt a con-
stitution and bylaws for the Tribe.

(2) INTERIM GOVERNING DOCUMENTS.—Until
such time as a new constitution is adopted under
this section, the governing documents in effect on
the date of the enactment of the Act shall be the in-
interim governing documents for the Tribe most recently submitted to the Department of the Interior.

(b) OFFICIALS.—Not later than 6 months after the Tribe adopts a constitution and bylaws pursuant to this section, the Tribe shall elect a governing body in accordance with the procedures set forth in its constitution and bylaws. Until such time as a new governing body is elected, the governing body of the Tribe shall be the governing body selected under the election procedures specified in the interim governing documents of the Tribe.

SEC. 7. LAND IN TRUST.

(a) REQUIREMENT TO TAKE LAND IN TRUST.—If the Tribe transfers all right, title, and interest in and to any land to the Secretary, the Secretary shall take such land in trust for the benefit of the Tribe, subject to subsection (c). This subsection does not limit the authority of the Secretary to take land in trust under the Indian Reorganization Act.

(b) PLAN FOR ESTABLISHMENT OF RESERVATION.—

(1) IN GENERAL.—The Secretary shall—

(A) negotiate with the tribal governing body with respect to establishing a reservation for the Tribe; and
(B) not later than two years after the date of enactment of this Act, develop a plan for establishment of a reservation.

(2) Consultation with state and local officials required.—To assure that legitimate State and local interests are not prejudiced by the proposed establishment of the reservation, the Secretary shall notify and consult with all appropriate officials of the State and all owners of land adjacent to lands considered for the proposed reservation in developing any plan under this subsection. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions imposed by subsection (e). During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary possesses and request comments and additional information on the following subjects:

(A) The size and location of the proposed reservation.

(B) The anticipated effect of the establishment of the proposed reservation on State and local expenditures and tax revenues.
(C) The extent of any State or local service
to the Tribe, the reservation, or members after
the establishment of the proposed reservation.

(D) The extent of Federal services to be
provided in the future to the Tribe, the reserva-
tion, or members.

(E) The extent of service to be provided in
the future by the Tribe to members resident on
or off the reservation.

(3) RESTRICTIONS ON PLAN.—A plan developed
pursuant to this subsection shall be in accordance
with subsection (c).

(4) SUBMISSION OF PLAN.—

(A) SUBMISSION TO CONGRESS.—Upon the
approval by the tribal governing body of the
plan developed pursuant to this subsection (and
after consultation with interested parties pursu-
ant to paragraph (2)), the Secretary shall sub-
mit the plan to the Clerk of the House of Rep-
resentatives and the Secretary of the Senate for
distribution to the committees of the respective
Houses of Congress with jurisdiction over the
subject matter.
(B) APPENDIX TO PLAN.—The Secretary shall append to the plan submitted to Congress under this subsection a detailed statement—

(i) describing the manner in which the Secretary notified all interested parties in accordance with this subsection;

(ii) naming each individual and official consulted in accordance with this subsection;

(iii) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(iv) including any written comments or reports submitted to the Secretary by any party named pursuant to clause (ii).

(e) RESTRICTIONS ON LAND TAKEN IN TRUST.—

(1) Any real property transferred by the Tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the Tribe.

(2) The Secretary shall not accept any real property in trust for the benefit of the Tribe that is not located within the political boundaries of Pacific, Wahkiakum, or Cowlitz County, Washington.
(3) Any privately owned lands acquired by the Tribe or its members to be taken in trust by the Secretary for the benefit of the Tribe shall be acquired on a willing-seller, willing-buyer basis.

(4) No eminent domain authority may be exercised for the purposes of acquiring lands for the benefit of the Tribe.

SEC. 8. FISHING, HUNTING, AND TRAPPING RIGHTS NOT RESTORED.

(a) IN GENERAL.—No nonceremonial fishing, hunting, or trapping rights of any nature of the Tribe or of any member of the Tribe, including any indirect or procedural right or advantage over individuals who are not members, are granted or restored under this Act. Ceremonial hunting and fishing rights (not to include whaling) shall be allowed in the area in which the Tribe has historically hunted or fished, in Pacific and Wahkiakum Counties, Washington.

(b) CEREMONIAL HUNTING AND FISHING.—

(1) DEFINED.—Ceremonial hunting and fishing includes traditional occasions on which the tribe has traditionally fished, including—

(A) the First Salmon ceremony, which takes place annually on the third Friday of June;
(B) the Winter Gathering, which takes place annually on the third Saturday of January; and

(C) the funerals of certain tribal members, to be determined in the Tribe’s constitution.

(2) TIME PERIOD.—Ceremonial hunting and fishing may take place for up to 3 calendar days during the week preceding the ceremonies referred to in paragraph (1).

(c) PERMITS.—The director of the Washington Department of Fish and Wildlife—

(1) may issue permits to members of the Chinook Nation to take fish for ceremonial purposes;

(2) shall establish the areas in which the permits are valid; and

(3) shall regulate the times for and manner of taking the fish, and the allocations from which they will be taken.

(d) RULES AND REGULATIONS.—To assure that ceremonial fishing is consistent with the Tribe’s historic customs and traditions, any member of the Tribe who wishes to take part in ceremonial fishing, must do so pursuant to—
(1) any rules or regulations put forth by the Washington Department of Fish and Wildlife with respect to Indian ceremonial fishing; and

(2) any rules or regulations put forth by the Washington Department of Fish and Wildlife, or by the Washington Administrative Code, with regard to the commercial and recreational allocations.

(c) ALLOCATION.—Fish taken for ceremonial purposes will be drawn from the commercial and recreational allocations as designated by the Washington Department of Fish and Wildlife.

(f) No COMMERCIAL RIGHTS.—Nothing in this section shall be construed to create a right to fish commercially.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $2,000,000 for fiscal year 2010, $3,000,000 for fiscal year 2011, and $4,000,000 for fiscal year 2012.