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(Some) Land Back…sort of: The Transfer of Federal Public Lands to Indian Tribes since 1970

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(SOME) LAND BACK…SORT OF: THE TRANSFER OF FEDERAL PUBLIC LANDS TO INDIAN TRIBES SINCE 1970

ABSTRACT

Federal public lands in the United States were carved from the territories of Native Nations and, in nearly every instance, required that the United States extinguish pre-existing aboriginal title. Following acquisition of these lands, the federal government pursued various strategies for them, including disposal to states and private parties, managing lands to allow for multiple uses, and conservation or protection. After over a century of such varied approaches, the modern public landscape is a complex milieu of public and private interests, laws and policies, and patchwork ownership patterns. This complexity depends on—and begins with—the history of Indigenous dispossession but subsequent developments have created additional layers of complication. Recently, a broad social movement, captured succinctly by the social media hashtag "#Landback" and including some American Indian tribes, has begun calling for the restoration of the nation's lands to Native ownership, including the transfer of all public lands to tribal hands. This article aims to contextualize and assess the more recent history of the transfer of federal public lands to Indian tribes, which has often taken the form of the United States transferring such lands into trust ownership for the benefit of a particular tribe. The article is the first comprehensive collection and analysis of 44 statutes enacted by Congress from 1970 to 2020 that transfer ownership interests in public lands to federally-recognized Indian tribes. These statutes are bookended by the return of Blue Lake to Taos Pueblo in New Mexico (1970) and the return of the National Bison Range to the Confederated Salish and Kootenai Tribes in Montana (2020). Analysis of these laws surfaces common themes and provisions related to the political dynamics of such congressional actions and the terms of post-transfer tribal or federal management. In particular, the article

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relies on four primary case studies to provide background, context, and detail in illustrating these themes: (1) Blue Lake on the Carson National Forest to Taos Pueblo, (2) the Western Oregon Tribal Fairness Act, (3) Chippewa National Forest land to the Leech Lake Band of Ojibwe in Minnesota, and (4) the National Bison Range to the Confederated Salish and Kootenai Tribes in Montana. These examples are representative of the larger catalog of transfer statutes and demonstrate the variation and complexity associated with each individual transfer situation. Hopefully, this first-ever collection of these laws will provide a practical grounding and depth of understanding for those considering or advocating for "#Landback." More broadly, these examples and the common themes that tie them together raise important questions about the historical and continuing patterns of public land ownership and control.

INTRODUCTION

On July 8, 1970, President Nixon delivered a Special Message to the Congress on Indian Affairs.[1] The President's message marked the culmination of a years-long and major shift in federal Indian policy. For the first time, President Nixon's message formally and expressly rejected the United States' prior approach of forced termination of the federal government's trust obligations to tribes in favor of tribally-defined priorities, including the promotion of tribal sovereignty. As the President's Special Message noted, this about-face was justified by the "special relationship between Indians and the Federal government" and the "solemn obligations" and "specific commitments" made to tribes through treaties and other agreements.[2] For their part, said the President's message, the "Indians have often surrendered claims to vast tracts of land," which helps explain why these agreements continue "to carry immense moral and legal force."[3]

Included in the President's Special Message to Congress was an endorsement of legislation that would return to the Taos Pueblo sacred Indian lands at and near Blue Lake in New Mexico.[4] In 1906, the U.S. Government appropriated these lands without compensation to the Pueblo and from them, created the Carson National Forest.[5] The restoration of these sacred lands to the Taos Pueblo was viewed by the President as a way to build trust and that "such action would stand as an important symbol of this government's responsiveness to the just grievances of the American Indians."[6]

1. President Nixon, Special Message on Indian Affairs, PUB. PAPERS (Jul. 8, 1970) [hereinafter Nixon Special Message].

2. *Id.*

3. *Id.*

4. *Id.*

5. John J. Bodine, *Blue Lake: A Struggle for Indian Rights*, 1 AM. INDIAN L. REV. 23, 25, 27 (1973).

6. Nixon Special Message, *supra* note 1.

As we discuss below,[7] the President signed this legislation shortly thereafter and the law transferring 48,000 acres from the National Forest System to the Taos Pueblo included prescriptions for how the restored land must be managed for "traditional purposes only," a request by the Pueblo, with the lands remaining "forever wild" and maintained as wilderness pursuant to the Wilderness Act of 1964.[8] Central to the debate over the Blue Lake legislation was the precedent some members of Congress thought would be established by the transfer of public lands to a Tribe. Far from a "singular" act of Congress, opponents saw the bill as a threat to the integrity of the National Forest System and federal public lands writ large.[9]

Fifty years after the return of Blue Lake to Taos Pueblo, another significant transfer marked a milestone in the history of Tribes and Public Lands. In 2020, Congress restored lands previously designated by the United States as the National Bison Range and managed as part of the National Wildlife Refuge System to the Confederated Salish and Kootenai Tribes.[10] Like Blue Lake, the facts and history of this more recent transfer are complicated and unique, though both—like nearly every tract of modern public land—share a similar narrative of tribal lands being appropriated for the establishment of public lands, a story long ignored as the "dark side of our conservation history . . . ."[11] Like Blue Lake, Congress restored the National Bison Range with special management provisions included in the legislation, to ensure it is managed "solely for the care and maintenance of bison, wildlife, and other natural resources."[12]

2020 also marked then-President Trump's controversial visit to Mount Rushmore in the Black Hills of South Dakota in celebration of Independence Day. While the President extolled the values of Western settlement and "manifest destiny" in a confrontational speech,[13] Lakota people gathered at the Monument in protest and civil disobedience, making clear the President was on tribal lands and again raising demands that the Black Hills be returned to their original inhabitants. The event marked a watershed moment for the #LandBack movement and its efforts to "restore stolen territory to Indigenous nations . . . ." [14] The movement considers the Black Hills its "cornerstone battle," and for good reason;[15] egregious violations of the Fort Laramie Treaty of 1868 and the unlawful taking of the sacred Black Hills remain longstanding wrongs justifying their restoration to tribal control. Even the United

7. *See infra* Part IV(A)(1).

8. Blue Lake to Taos Pueblo, Pub. L. No. 91-550, §§ 4(a)–(b), 84 Stat. 1437, 1437–38 (1970).

9. *See infra* Part IV(A)(1).

10. Consolidated Appropriations Act, 2021, National Bison Range Restoration, Pub. L. No. 116-260, div. DD § 12, 134 Stat. 1182, 3029–31 (2020).

11. Sarah Krakoff, *Public Lands, Conservation, and the Possibility of Justice*, 53 HARV. C.R-C.L. L. REV. 213, 215 (2018).

12. Consolidated Appropriations Act, 2021, National Bison Range Restoration, Pub. L. No. 116-260, div. DD § 12(c)(2)(C), 134 Stat. 1182, 3031 (2020).

13. *Remarks by President Trump at South Dakota's 2020 Mount Rushmore Fireworks Celebration, Keystone, South Dakota*, WHITEHOUSE (July 4, 2020), https://perma.cc/2G4Q-HXY5; Nick Estes, *The Battle for the Black Hills*, HIGH COUNTRY NEWS (Jan. 1, 2021), https://perma.cc/X93Z-DQUC.

14. *#LandBack is Climate Justice*, LAKOTA PEOPLE'S L. PROJECT (Aug. 14, 2020), https://perma.cc/2VJD-DH4A [hereinafter #*Landback*]; Estes, *supra* note 13.

15. #*Landback*, *supra* note 14.

States Supreme Court noted that "[a] more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history . . . ."[16]

Like all movements, #LandBack is not monolithic in its orientation, it represents multiple views and approaches to the restoration of tribal lands and all else taken from Indigenous peoples.[17] Various efforts have focused on the acquisition of fee properties within established reservations or private property adjacent to them.[18] Others, however, are more focused on federal public lands. This includes the leadership organization, NDN Collective, which makes clear its aim to restore *all* public lands to indigenous ownership.[19] Complicating matters is that previous transfers of public land to trust status, such as the return of Blue Lake and the National Bison Range, were advanced as singular events and were not tied (at least publicly or explicitly) to a broader movement or any larger push to return *all* public lands to tribal ownership and/or control.

Prior to 2020, other social movements have also demanded new approaches to the American public's ownership and federal control of public lands. Yet another chapter of the Sagebrush Rebellion began in earnest in 2012, with multiple western state legislatures calling for the transfer of federal public lands to state ownership.[20] Multiple bills in Congress then followed, intending to transfer either the ownership or control of public lands from the United States to state and local governments.[21] The political backlash was immense, and the "Keep It Public" movement united an array of different interests focused on keeping "Public Lands in Public Hands."[22] In addition, some scholars pointed out how claims of rightful state ownership overlooked or misinterpreted important historical and legal developments.[23] This separate state and local-focused movement has generally ignored the potential transfer of public lands to tribes and centered instead on demands to transfer lands to state governments or the broader privatization of public lands.[24]

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16. United States v. Sioux Nation of Indians, 448 U.S. 371, 388, 100 S. Ct. 2716, 2727, 65 L. Ed. 2d 844 (1980).

17. *See e.g.*, *Landback Powered by NDN*, LANDBACK, https://perma.cc/A5TG-AHNN (last visited Apr. 6, 2023).

18. *See*, *e.g.*, *Land Buy-Back Program for Tribal Nations*, U.S. DEP'T INTERIOR, https://perma.cc/63N2-6888 (last visited Aug. 23, 2022).

19. *NDN Collective Landback Campaign Launching on Indigenous Peoples' Day 2020*, NDN COLLECTIVE (Oct. 9, 2020), https://perma.cc/RY8N-UJ3X (petition to shut down Mt. Rushmore and return all public lands to their original stewards).

20. Martin Nie & Patrick Kelly, *State and Local Control of Federal Lands: New Developments in the Transfer of Federal Lands Movement*, 45 ECOLOGY L. CURRENTS 187, 187 (2018).

21. *Id.*

22. For a review of this broad-based coalition and a state-by-state tracker of efforts to privatize or transfer federal lands see *Outdoor Voters*, CTR. FOR WESTERN PRIORITIES, https://perma.cc/X677-SH68 (last visited Apr. 6, 2023).

23. *See*, *e.g.*, John D. Leshy, *Are U.S. Public Lands Unconstitutional?*, 69 HASTINGS L. J. 499, 550, 556 (2018); ROBERT B. KEITER & JOHN C. RUPLE, S.J. QUINNEY COLLEGE OF LAW RESEARCH PAPER NO. 99, THE TRANSFER OF PUBLIC LANDS MOVEMENT: TAKING THE 'PUBLIC' OUT OF PUBLIC LANDS, STEGNER CENTER WHITE PAPER NO. 2015-01 1 (2015).

24. The tendency is to focus on "transferring public lands out of American ownership to state or private interests." *See e.g.*, *America's Public Lands: Too Special to Sell Off*, NAT'L WILDLIFE FED'N, https://perma.cc/W6N9-NNER (last visited Apr. 6, 2023).

While these movements and their intensity demonstrate the importance of public lands within our national—and especially the American West's—political universe, we enter this space as non-Native people with the goal of informing that dialogue by providing a more comprehensive accounting of federal public lands being transferred to tribal trust status.[25] Therefore, we do not intend to weigh in on the competing narratives and demands for public lands represented by the #LandBack or states' rights movements.[26] Instead, we aim to support a more constructive discussion of these complex issues by providing a first-of-its-kind collection of the transfer to tribes legislation spanning the last half-century; information we believe is necessary for federal, state, and tribal legislators, policy-makers, and natural resource managers, as well as anyone interested in our nation's public lands. Though the Article concludes with some general observations and questions for future research, we convey this information as descriptively as possible in service of that objective.

The Article comes in four parts. Part I provides a concise historical background of the connections between modern Indian Tribes and federal public lands as well as a brief summary of tribal land ownership and status. Part II describes the methods used to identify the transfer legislation analyzed and provides details to assist future research. Our findings come in Part III, which describes the most common themes we uncovered in a brief narrative and then presents them in a series of tables for ease of comparison. Part IV elucidates our four case-studies and explains the connections between those examples and the broader themes identified in Part III. We then conclude with some general observations on the meaning and import of our findings, along with some calls for further work and suggestions for where this analysis may be most useful. In an effort to make the work as useful as possible, we also include an appendix, which chronologically catalogs the relevant laws, along with information on the tribes and agencies involved, provisions related to land administration, and the amount of acreage transferred, where available.

As the nation struggles to reckon with our history, the connections between settler-colonialism, Indigenous displacement and dispossession, and federal public lands will remain central to the success of those efforts and a brighter, more just future. We hope our work helps that progress by supporting a deeper, more nuanced, and better-shared understanding of the means by which the United States has transferred public lands for the benefit of Indian tribes in the modern era.

I. BACKGROUND

Modern efforts to transfer public lands to benefit tribal interests are rooted in the historical displacement from and dispossession of Native Nations from those lands. The histories of public lands and Indian tribes in the United States are closely

25. As discussed in greater detail in Part I, Indian or tribal trust lands remain owned by the United States but, rather than being held in trust from the nation (as public lands are), tribal trust lands are owned and managed for the benefit of a Tribe or tribal individual(s). *See, e.g.*, 1 COHEN'S HANDBOOK OF FEDERAL INDIAN LAW §15.03 997–99 (Nell Jessup Newton et al. eds., 2012) [hereinafter COHEN'S HANDBOOK].

26. Similarly, we do not address other avenues through which Native Nations may be pursuing similar objectives, such as the purchase of lands on the open market or the co-management of federal public lands.

related.[27] But for the removal and exclusion of tribes from large swaths of their traditional territories, there would be no public lands. A full accounting of the history of federal public lands and their basis in aboriginal territory and Indian Title is beyond the scope of this Article;[28] however, the implications stemming from this history are critical to understanding the context in which more modern land restoration efforts are situated. The dominant narrative of public lands history has long been told as a three-part series: (1) the acquisition of public lands from foreign nations, such as through the Louisiana Purchase, (2) the use and disposal of public lands to promote national interests in expansion and industry, and (3) the retention and management of public lands in service of conservation or recreational objectives.[29] This telling of the nation's public land history often omitted reference to the original inhabitants of those lands and the means by which Native Nations were removed and dispossessed from much of that territory. Only in more recent decades has attention begun to focus on the enduring implications resulting from this history.

The acquisition of what would become the continental United States by the U.S. federal government required negotiations both external and internal to the nation. On the international stage, treaties with Great Britain, France, Spain, and Mexico all secured U.S.'s territorial claims vis-à-vis its international competitors for land and resources.[30] Internally, however, the federal government also secured concessions from the original states of the union, which, by virtue of expansive language in their colonial charters, maintained rights to broad swaths of country.[31] Even upon the securing of these claims, however, these territories remained occupied and inhabited by those who had been on the lands since time immemorial and, in order to secure its perceived "manifest destiny," the United States would need to devise and implement means for clearing its title—both legally and physically.

The method by which the federal government secured title from Indian tribes throughout the nineteenth century was rooted in longstanding principles of international law but also entirely unique to the American experiment. The landmark opinion of Chief Justice Marshall in *Johnson v. M'Intosh* both epitomized and legitimized this approach.[32] Relying on both the long history of European legal traditions related to colonization and conquest while also calling for a "new and different rule" better suited to the situation in North America, Marshall's opinion in *Johnson* secured for the federal government of the United States the exclusive authority for extinguishing Indigenous claims to territory.[33] Relying on that authority

27. *See* Monte Mills & Martin Nie, *Bridges to a New Era: A Report on the Past, Present, and Potential Future of Tribal Co-Management on Federal Public Lands*, 44 PUB. L. & RES. L. REV. 49, 54 (2021) (reviewing this history in the context of tribal co-management).

28. For a detailed and thorough accounting of the history of the nation's public lands, see generally JOHN D. LESHY, OUR COMMON GROUND: A HISTORY OF AMERICA'S PUBLIC LANDS (2021).

29. *See e.g.*, SAMUEL TRASK DANA & SALLY K. FAIRFAX, FOREST AND RANGE POLICY, ITS DEVELOPMENT IN THE UNITED STATES ch. 2 (Sally K. Fairfax ed., 1980); GEORGE CAMERON COGGINS ET AL. FEDERAL PUBLIC LAND AND RESOURCES LAW ch. 2 (6th ed. 2007).

30. *See, e.g.*, LESHY, *supra* note 28, at 34–40.

31. *Id.* at 4–11.

32. Johnson v. M'Intosh, 21 U.S. 543, 5 L. Ed. 681 (1823).

33. *Id.* at 591.

and the international legal tradition of treaty-making, the United States then proceeded to use treaties to acquire full ownership of much of the nation's public lands.

As noted by one leading commentator, however, "[t]he process by which the United States acquired Indian lands for Euro-American settlement was seldom orderly and often difficult, with a dark side."[34] With non-Indian settlers regularly flooding into tribal territories in search of gold, land, and other resources, the United States was often able to leverage insurmountable pressure upon Native Nations to secure unjust and unfair terms of "agreement."[35] In many instances, language or cultural barriers prevented any meeting of the minds necessary for an enforceable deal.[36] Still, however, tribal negotiators were able to secure important rights through many of these treaties and regularly used the nation-to-nation negotiations to protect their access to and use of lands and resources they were forced to cede in order to continue important aspects of their continuing existence.[37] Nonetheless, throughout the 1800s, the United States relied on force, duress, military might, and many other questionable means to dispossess tribes of their rights to continue to use and occupy much of their traditional territories.[38]

Upon securing a unified title to lands across the nation, the United States then proceeded to dispose of those lands to a number of entities and interests, often in service of national priorities in expanding and controlling or exploiting natural resources.[39] With massive grants to railroads, mining interests, states, and other "politically influential citizens and enterprises," the federal government treated public lands as a boundless source of incentive and compensation throughout the latter half of the nineteenth century.[40] In addition to accelerating the massive migration of settlement to the western United States, the methods by which the nation's lands were dealt out to private industry resulted in complex legacies of devastation and confusion.[41] For example, railroads were regularly granted alternating parcels of land for as much as forty miles on either side of a proposed route.[42] Overall, the United States granted almost 100 million acres of land to various railroad interests[43]—an area that, if its own state, would be the nation's fourth

34. LESHY, *supra* note 28, at 38.

35. *See, e.g.*, *id.* (describing the gold rush onto Cherokee territory and the subsequent removal of the Cherokee Nation to Oklahoma).

36. *See, e.g.*, Worcester v. Georgia, 31 U.S. 515, 582, 8 L. Ed. 483 (1832) (recognizing that the language of treaties should "never be construed to . . . prejudice" Tribes and confirming a rule of construction based upon tribal understanding of the treaty in light of the language and cultural barriers in negotiations).

37. *See, e.g.*, Herrera v. Wyoming, 203 L. Ed. 2d 846, 139 S. Ct. 1686, 1691–92 (2019) (affirming continuing existence of treaty-reserved rights to hunt reserved by the Crow Nation in treaties with the United States).

38. *See* LESHY, *supra* note 28, at 38 ("While many transactions were not fair and honorable, they did operate to give the United States clear title.").

39. *See id.* at 39 ("Once [the United States secured title from tribes], the government proceeded to relinquish ownership of most of these lands to settlers, states, railroads, and many other entities.").

40. *Id.* at 97 (describing what Vernon Parrington called the "huge barbeque" of federal largesse).

41. *See, e.g.*, *id.* at 85–99.

42. *Id.* at 88.

43. *Id.*

largest—and, as a result of the checkerboard nature of these grants, the resulting fragmentation of ownership across the nation remains challenging for continued management and use of remaining public lands.[44] While significant, these massive land grants to railroads were typical of the disposal of acreage that defined this second chapter of the nation's public lands history.

Chapter III of public lands history most often focuses on Congress's decision in 1976 to retain federal lands in public ownership. Though public land systems were already established by Congress at this point, the Federal Land Policy and Management Act (FLPMA) of 1976 made the retention of public lands national law and policy.[45] It declares that it is the policy of the U.S. that "the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest . . . ."[46]

Of particular relevance here is the dynamic and fluid nature of federal public lands, with acreage totals and boundaries fluctuating yearly as federal land agencies use their delegated authorities to acquire, dispose and exchange public lands.[47] Each year, the total acreage of public lands may increase or decrease due to the balance of acquisitions, disposals, and exchanges. Between 1990 and 2018, for example, public land in the eleven contiguous states decreased by 10.7 million acres.[48]

Public land transactions are almost always controversial because of the place-based attributes of each parcel and the constituencies defending each and every part of the public land system.[49] In addition, the historical giveaway of public lands

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44. *See, e.g.*, CTR. FOR W. PRIORITIES, LANDLOCKED: MEASURING PUBLIC LAND ACCESS IN THE WEST 5 (documenting access issues to public lands resulting from checkerboard ownership patterns stemming from railroad grants); LESHY, *supra* note 28, at 91.

45. Congressional Declaration of Policy, 43 U.S.C. §1701 (1976).

46. *Id.* at § 1701(a).

47. There are multiple public land authorities pertaining to acquisition, disposal and exchange. They are both system-wide statutes and place-specific. The Federal Land Exchange Facilitation Act (FLEFA) amended FLPMA by streamlining the exchange process and these transactions may result in a net increase or decrease of public lands. Congress may also enact legislation providing for the exchange of particular lands, such as the Utah Recreational Land Exchange Act enacted in 2009. Utah Recreational Land Exchange Act of *2009*, Pub. L. No. 111-53, § 3(a), 123 Stat. 1982, 1983 (2009). It directed the Secretary of the Interior to convey approximately 35,000 acres of federal land to the State of Utah in exchange for approximately 25,000 acres of state-owned lands. This exchange consolidated checkerboarded land ownership patterns, protected lands along the Colorado River, and allowed Utah to develop state-owned lands more efficiently. This exchange resulted in a net decrease in acreage, but accomplished goals of simplifying management jurisdiction in the area.

48. U.S. CONG. RSCH. SERV., R42346, FEDERAL LAND OWNERSHIP: OVERVIEW AND DATA 15 (2020). The 11 western states are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

49. The consequences can be devasting to Tribes. The most recent example is provided in the "Oak Flat" area in Arizona. The Oak Flat area was listed on the National Register of Historic Places as an Apache Traditional Cultural Property in 2016. Within its boundaries include 38 archeological sites and several additional sacred places, springs, and other significant locations. Section 3003 of the Carl Levin and Howard P. 'Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 included a mandatory land exchange and transfer of the Oak Flat area to Resolution Copper. Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, subtit. A § 3003(c)(6)(A), 128 Stat. 3292, 3735 (2014). Though the Act limits the USFS's discretion over the

sparked a significant backlash that motivated the preservation of public lands and remains an important part of the political landscape.[50] We return to the complexities of site-specific considerations in the conclusion, but for now, we emphasize this fluidity in order to place transfers of public lands to tribes in their proper context. Between 1990 and 2018, the largest identified land transfer to a tribe was 31,229 acres to the Duckwater Shoshone Tribe through the Nevada Native Nations Land Act.[51] That transfer was the only transfer in that time period that was over 20,000 acres.[52] Between 1990 and 2018, thirty-five of the identified transfers specified acreage.[53] Of those thirty-five transfers, twenty-five transferred less than 5,000 acres.[54]

A. Tribal Land Ownership and Trust Status

The nature and ownership of tribal lands within what would become today's Indian reservations parallel the story of the nation's public lands. Increasingly isolated on reservations by the United States' efforts to acquire territory and then dispose of or retain it for public and private (non-Indian) use, Indian tribes also faced the destruction of their on-reservation land base through the allotment policies of the late 1800s and early 1900s.[55] Allotment, deemed a "mighty pulverizing engine [designed] to break up the tribal mass" by President Theodore Roosevelt,[56] resulted in the carving up of previously communally-owned reservations into parcels for individual Indian homesteads and, thereafter, settlement by non-Indians as well.[57] Like the complicated legacy left by the disposition of public lands, the wake of the allotment era continues to reverberate across those reservations that were allotted.[58]

The allotment era also formalized the trust ownership of tribal lands by the United States. Although the concept of overarching ownership of tribal property for the use, occupation, and benefit of the Tribes had been an undercurrent of both British and American legal theories of property, the 1887 General Allotment Act was the first statute to use the word "trust" and call for the United States to hold lands "in trust" for the benefit of Indians.[59] Eventually, with the enactment of the Indian Reorganization Act of 1934, Congress put a formal end to the disaster of allotment, preserved and extended the then-existing trust status of properties, and authorized

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transfer, and its ability to address Tribal concerns, an EIS still had to be prepared. The Draft EIS makes clear that "[c]onstruction and operation of the mine would profoundly and permanently alter" the Oak Flat TCP, potentially including human burials. USDA FOREST SERV., DRAFT ENVIRONMENTAL IMPACT STATEMENT: RESOLUTION COPPER PROJECT AND LAND EXCHANGE 25 (2019).

50. *See, e.g.*, LESHY, *supra* note 28, at 97–99 (describing the historical opposition to the disposal of public lands and its motivation of reservation and conservation policies).

51. Nevada Native Nations Land Act, Pub. L. No. 114-232, § 3(f)(3), 130 Stat 958, 960 (2016).

52. *See infra* Appendix A and accompanying text.

53. *See infra* Appendix A and accompanying text.

54. *See infra* Appendix A and accompanying text.

55. COHEN'S HANDBOOK, *supra* note 25, § 1.04, at 72–74.

56. Theodore Roosevelt, U.S. President, First Annual Message (Dec. 3, 1901).

57. COHEN'S HANDBOOK, *supra* note 25, § 1.04, at 75.

58. *See generally* Judith Royster, *The Legacy of Allotment*, 27 ARIZ. ST. L. J. 1 (1995).

59. COHEN'S HANDBOOK, *supra* note 25, § 15.03, at 998.

the Secretary of the Interior to take additional parcels into trust for the benefit of Indians and Indian tribes.[60]

The ownership of property by the United States in trust for Indian tribes and individuals insulates those lands from loss and serves as an important backstop against the historical dispossession of tribal interests. Federal laws, such as Congress express prohibition upon the granting of any encumbrance or other burden on trust lands that may extend beyond seven years without approval by the Secretary of the Interior, may restrict the types of interests granted in trust lands.[61] Similarly, leases[62] and rights-of-way[63] across tribal trust lands are subject to review and approval (or issuance) by federal officials. Because of the significant federal role in oversight and protection of these tribal trust lands, other federal laws, such as the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA), that apply to federal decision-makers also apply to the issuance or approval of such agreements on tribal trust lands.[64] As a result, some tribal leaders, particularly those interested in development activities on trust lands, view federal management of their tribal trust lands as governed by federal public land priorities instead of the needs and interests of the tribe itself.[65]

As detailed in the following sections, each of the transfers of federal public lands to tribes over the last fifty years was a specific transfer, often with its own conditions, terms, and limitations upon the future use and management of the transferred lands. These transfers also shifted the land from ownership by the United States to ownership by the United States in trust for a particular tribe or tribes with an interest in those lands. As such, both the transfer-specific terms of future tribal use, management, and control of those lands as well as the broader conditions of the lands' trust status are relevant in analyzing and considering the scope and import of these transfers.

II. METHODS

The geographic area of focus is the continental United States and because of the history of public lands, most of the research focuses on cases in the western United States. Public lands in Alaska are not included in this research.[66] We searched

60. *Id.*; Allotment of Land on Indian Reservations, 25 U.S.C. § 5101 (1934) (ending allotment); Existing Periods of Trust and Restrictions on Alienation Extended, 25 U.S.C. § 5102 (2016) (extending trust status); Title to Lands, 25 U.S.C. § 5105 (1939) ("Title to lands or any interest therein acquired pursuant to this Act for Indian use shall be taken in the name of the United States of America in trust for the tribe or individual Indian for which acquired.").

61. Contracts and Agreements with Indian Tribes, 25 U.S.C. § 81 (2000) ("No agreement or contract with an Indian tribe that encumbers Indian [trust] lands for a period of 7 or more years shall be valid unless that agreement or contract bears the approval of the Secretary of the Interior or a designee of the Secretary.").

62. Leases of Restricted Lands, 25 U.S.C. § 415 (2023).

63. Rights-of-Way for all Purposes Across Any Indian Lands, 25 U.S.C. § 323 (1948).

64. *See, e.g.*, Davis v. Morton, 469 F.2d 593, 597–98 (10th Cir. 1972) (applying NEPA to federal approval of a lease pursuant to 25 U.S.C. § 415(a)).

65. *See, e.g.*, U.S. GOV'T ACCOUNTABILITY OFF., GAO-15-502, INDIAN ENERGY DEVELOPMENT: POOR MANAGEMENT BY BIA HAS HINDERED ENERGY DEVELOPMENT ON INDIAN LANDS (2015).

66. *See generally* Monte Mills & Martin Nie, *Bridges to a New Era, Part 2: A Report on the Past, Present, and Potential Future of Tribal Co-Management on Federal Public Lands in Alaska*, 46

for transfer legislation enacted between 1970 and 2020. 1970 is the year President Nixon shifted federal Indian policy to self-determination and Congress restored Blue Lake to Taos Pueblo.[67] The precedent established by this statute was a significant part of the congressional debate and some members of Congress emphasized the singular nature of this transfer law.[68] Thus, 1970 provided a politically significant year in which to bookend the search.

Early in the research process, we contacted each federal land management agency by email or by phone to inquire about agency records of lands that were removed from agency jurisdiction and placed into tribal trust via Congressional statute. We attempted to contact the most relevant office, division, or program within each federal public land agency, including: the Forest Service Lands and Realty Management Office, National Park Service Land Resources Division, Bureau of Land Management Withdrawal Program, and Fish and Wildlife Service Division of Realty. USFS, BLM, and NPS each provided records after some discussion about the desired data. USFWS never responded to multiple inquiries. Important to note is that each agency staff member responding to our inquiry provided a disclaimer that the information provided had to be pieced together from other records and was most likely inaccurate and incomplete.[69]

The BIA is not a public land management agency, but as the trustee for all Indian trust lands,[70] it was important to contact the agency's Office of Trust Services to attempt to obtain records. BIA operates the Trust Asset and Accounting Management System (TAAMS), which keeps records of tribal trust assets.[71] A BIA representative in the Office of Trust Services informed us that TAAMS was a proprietary system for BIA and tribal use only and BIA records of tribal trust assets could not be obtained without a Freedom of Information Act request.

After speaking with multiple agency representatives and conducting a diligent search for available online resources, we concluded that no publicly available comprehensive record of Indian trust lands that were once federal public lands exists. We, therefore, began a more labor-intensive manual search of the congressional record using the Library of Congress database, www.Congress.gov, to identify legislation placing federal public land into tribal trust status. Congress.gov

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COLUMBIA J. ENV'T. L. 176 (2022) (reviewing important distinctions in Alaska's history and laws pertaining to federal lands and Alaska Native Tribes).

67. Bodine, *supra* note 5, at 23.

68. *Id.* at 23, 27.

69. For example, USFS sent the following disclaimer:

> To respond to your request we used the Land Status Record System (LSRS) database. The LSRS is considered to be the authoritative source for current (not previous or historical) Forest Service ownership. The systems of tracking land ownership over time have changed and therefore the data I'm providing is likely not comprehensive or conclusive and it could have errors or omissions. The LSRS system allows users to enter data different ways and there is not a single identifier in the Land Status Record System (LSRS) that identifies lands that have been transferred, exchanged, or disposed to Indian tribes.

E-mail from Kelsey David to Audrey Glendenning (Sept. 8, 2021) (on file with author).

70. Office of Trust Services, *Our Mission*, BUREAU INDIAN AFFS., https://perma.cc/YW8R-AELD (last visited Apr. 6, 2023).

71. Division of Land Titles and Records, *Our Mission*, BUREAU INDIAN AFFS., https://perma.cc/CR2W-BLGH (last visited Apr. 6, 2023).

is the official website for U.S. federal legislative information and compiles data from the Office of the Clerk of the U.S. Representatives, the Office of the Secretary of the Senate, the Government Publishing Office, Congressional Budget Office, and the Library of Congress's Congressional Research Service.[72]

On Congress.gov, we experimented with multiple keyword search strategies that were refined with each iteration. To determine how useful a search strategy was, I looked through the results for three transfers that I was already familiar with through background research: Blue Lake (P.L. 91-550), Grand Canyon (P.L. 93-620), and Bison Range (P.L. 116-260). If those transfers did not show up in the results, we could tell the strategy needed to be altered.

Filtering for Congresses 91-116 (1969-2021) remained consistent as we experimented with different search strategies. This kept all results within the study's desired time frame. The other consistent selection was to search for only bills that became law. Many transfers were found within bills that had no mention of a transfer in the title. Therefore, it was necessary to search by bill text, not just bill title. The best search terms for the words and phrases field ended up being much less specific than anticipated. The words "land," "transfer," and "trust," in no specific order, were almost always present in transfer legislation, and therefore captured the most transfer legislation within the search results. The advanced searches option provides a discrete list of policy areas that all policy documents on the database are categorized by. We selected two policy area options: Native Americans and Public Lands. It was necessary to filter for bills that were marked by both policy areas, not just one or the other, to limit irrelevant search results.[73]

The initial search provided more relevant results than other search terms but still contained many irrelevant results that upon inspection had nothing to do with public land transfer legislation. Whether it appeared to be relevant or not, we analyzed each bill summary to determine if the legislation had a provision that placed federal public land into tribal trust. This was the most time-intensive part of the research but was critically important because long and seemingly irrelevant bills sometimes contained small transfer provisions. When a statute was relevant to the research, we saved the statute and added it to a shared folder.

We also searched agency websites for any published records that could be used as guidance in the search. The USFS published a chronological record of the establishment and modification of national forest boundaries between 1891 and 2012 ("Chronological Record"). The Chronological Record was used as a reference to confirm transfers involving Forest Service lands but was not useful in the preliminary identification of legislation. For example, the Hoopa Valley Reservation South Boundary Adjustment Act, which transferred 2,641 acres of Forest Service land to the Hoopa Valley Tribe, is denoted in the Chronological Record only by "land deleted." There is no indication that the land was placed into trust for a tribe. Some of the transfers are not present in the Chronological Record at all, even though they

72. *About Congress.gov*, CONGRESS.GOV, https://www.congress.gov/about (last visited Apr. 6, 2023).

73. After some tooling, we selected the following search strategy on Congress.gov: Advanced searches; congresses 91-116 (1969-2020); all fields including bill text, words, and phrases = land transfer trust; filters = only bills that became law; policy area = Native Americans and Public Lands.

are within the time frame covered by the document. The Washoe Indian Tribe Trust Land Conveyance, which transferred 24.3 acres of Forest Service land to the Washoe Tribe, is not mentioned in the Chronological Record. Perhaps this is because the Act mentions only the Department of Agriculture, not the Forest Service. However, the land transferred was part of the Lake Tahoe Basin Management Unit, which is indeed managed by the USFS. The Chronological Record's limitations are representative of the obstacles encountered while attempting to use agency records to inform this research. Thus, a manual search of the congressional record proved to be the most reliable search strategy.

We systematically organized every statute identified in the search by public law number, the Indian Tribe involved, the federal public land agency involved, acreage, and land administration provisions. Some statutes did not specify some of these factors. For example, some statutes did not mention the specific federal land management agency that managed the land prior to transfer, and some statutes did not provide an exact acreage. In those instances, we searched the Congressional Record for the missing pieces of information, such as statements made in Congressional Hearings. We also recorded instances of information not found and recorded any mention of required or desired land administration within the statute and logged it as a "land administration provision" for subsequent analysis.

The research process identified 44 statutes that transferred federal public lands into tribal trust status between 1970 and 2020. Some statutes contained transfers to multiple different tribes or bands. Within the statutes that contain multiple transfers, the transfers may be related or unrelated to each other. For example, the Omnibus Public Land Management Act of 2009 contains multiple transfers that are not related to each other in any way, so they are presented separately in the findings section. Alternatively, the Western Oregon Tribal Fairness Act contains multiple transfers, but they are related to each other by history and location.

The findings section in Part III groups these transfers together accordingly. The transfers ranged from 1970–2020 and each land management agency was represented in the collection. We made every attempt to make the database as comprehensive as possible and the collection seems to be more complete than what is held by federal public land agencies, or at least what they were willing to share publicly. We nonetheless cannot claim this database to be a complete representation of all legislation placing federal lands into tribal trust from 1970–2020. To do so would require access to the BIA's Trust Asset and Accounting Management System, which is not publicly available absent a FOIA request.

III. FINDINGS

Provided below is a review of the most dominant themes found in the 44 statutes transferring federal public lands to Tribal trust status. They are first described and then provided in table format. It is important to note that themes were considered to be dominant with as few as five examples among the identified transfer legislation. The research reveals the individualized nature of each law transferring public lands to trust status and therefore every repetition of a theme is relatively significant.

The identified statutes vary in length, detail, and scope. Some statutes are more prescriptive than others. The statutes contain a wide variety of land administration provisions that may authorize, restrict, or prohibit certain activities on

transferred lands. In most statutes, Congress provides specific requirements beyond just the transfer of acreage. However, some statutes remain silent on certain topics, and some statutes remain silent on nearly everything.

A. Valid Existing Rights

There are many types of rights that may encumber federal public lands. Grazing leases, easements, rights-of-ways, mining claims, oil and gas leases, water rights, and off-reservation hunting and fishing rights are some examples of encumbrances that may exist on a parcel of public land. In the identified transfer legislation, Congress is relatively consistent in preserving valid existing rights. In fact, with twenty-eight instances of securing valid existing rights, this was the most common theme among the identified transfer legislation.

The New Mexico Trust Lands Act transferred 4,484 acres to the Pueblos of Santa Clara and San Ildefonso.[74] The statute states that "nothing in this Act affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that is in existence before the date of enactment of this Act."[75] This means that all 4,484 acres placed in trust for the tribe are subject to valid existing rights.

Most of the identified statutes included similar language. This means that, often, non-Tribal members continue to hold property interests and privileges on the transferred land even after it is removed from a public land system and placed into trust. The precise impact of valid existing rights on tribal land management depends on the type and number of rights that exist on the land.

Access is also a consideration when valid existing rights remain in force. The Timbisha Shoshone Homeland Act specifies that "nothing in this Act shall be construed as terminating any valid mining claim," and "any person with such an existing mining claim shall have all the rights incident to mining claims, including the rights of ingress and egress on the land described."[76]

Table 2 includes three statutes restricting and/or terminating grazing privileges on transferred lands. For example, the California Indian Land Transfer Act within the Omnibus Indian Advancement Act requires that "[g]razing preferences on lands described . . . shall terminate 2 years after the date of the enactment of this Act."[77]

74. New Mexico Trust Lands Act, Pub. L. No. 108-66, §§ 2–3, 117 Stat. 876, 876–77 (2003).

75. *Id.* § 6 at 878.

76. Timbisha Shoshone Homeland Act, Pub L. No. 106-423, § 5(4), 114 Stat. 1875, 1878 (2000).

77. Omnibus Indian Advancement Act, Pub. L. No. 106-568, tit IX § 903(b), 114 Stat. 2868, 2923 (2000).

Table 1. Statutory Provisions Recognizing Valid Existing Rights		
Title	**Citation**	**Content**
RE: Blue Lake to Taos Pueblo	Pub. L. No. 91-550, § 4(e), 84 Stat. 1437, 1439 (1970).	"Nothing in this section shall impair any vested water right."
RE: Conveyance of Excluded Olympic National Park Lands to Quileute Indian Tribe	Pub. L. No. 94-578, § 320(d), 90 Stat. 2732, 2740 (1976).	"[A]ny concessioner providing public services shall be permitted to continue to provide such services in such manner and for such period as set forth in his concession contract. . . ."
RE: Conveyance of Bureau of Land Management Lands to Pueblo of Zia	Pub. L. No. 95-499, § 4(a), 92 Stat. 1679, 1680 (1978).	"Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands . . . All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases . . . shall remain in force and effect. . . ."
RE: Conveyance of Forest Service Land to Tule River Tribe	Pub. L. No. 96-338, § 3(a), 94 Stat. 1067, 1067 (1980).	"Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have. . . ."
RE: Establishing a Reservation for the Confederated Tribes of Siletz Indians	Pub. L. No. 96-340, § 1, 94 Stat. 1072, 1072 (1980).	"Subject to all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of the enactment of this Act. . . ."
RE: Conveyance of Public Domain Lands to Mdewakanton Sioux Communities	Pub. L. No. 96-557, § 3, 94 Stat. 3262, 3262 (1980).	"Nothing in this Act shall (1) alter, or require the alteration, of any rights under any contract, lease, or assignment entered into or issued prior to enactment of this Act, or (2) restrict the authorities of the Secretary of the Interior under or

		with respect to any such contract, lease, or assignment."
RE: Navajo Tribe Land Exchange	Pub. L. No. 97-287, §§ 3(b)(1)-(2), 96 Stat. 1225, 1225 (1982).	"Nothing in this Act shall affect (1) the mineral interests of any person, or (2) any easement or other rights of any person. . . ."
RE: Conveyance of Public Domain Lands to Bands of the Paiute Indian Tribe	Pub. L. No. 98-219, § 1(c), 98 Stat. 11, 11 (1984).	"Nothing in this section shall deprive any person of any existing legal right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the lands described. . . ."
RE: Conveyance of Lands to the Zuni Indian Tribe for Religious Purposes	Pub. L. No. 98-408, § 2, 98 Stat. 1533, 1533 (1984).	"[S]ubject to any existing leasehold interests. . . ."
RE: San Juan Basin Wilderness Protection Act	Pub. L. No. 98-603, § 106(2), 98 Stat. 3155, 3158 (1984).	"The leaseholders rights and interests in such coal leases will in no way be diminished by the transfer of the rights, title and interests of the United States in such lands to the Navajo Tribe."
RE: Bureau of Land Management Lands to Reno Sparks Indian Colony	Pub. L. No. 99-389, § 2(a)(1), 100 Stat. 828, 829 (1986).	"[N]othing in this Act shall deprive any person of any right-of-way, mining claim, water right, or other right or interest which such person may have in the land described in the first section on the date preceding the date of enactment of this Act."
RE: Hoopa-Yurok Settlement Act	Pub. L. No. 100-580, § 2(c)(2), 102 Stat. 2924, 2926 (1988).	"Subject to all valid existing rights. . . ."
RE: Expansion of Quinault Indian Reservation	Pub. L. No. 100-638, § 9(c), 102 Stat. 3327, 3329–3330 (1988).	"Nothing in this Act is intended to affect or modify . . . any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to. . . ."
RE: Development of the Utah Component of the Confederated Tribes of the Goshute Reservation	Pub. L. No. 100-708, § 2(a), 102 Stat. 4717, 4717 (1988).	"Except as otherwise provided in this section, nothing in this Act shall be construed to deprive any person of any valid existing right or interest. . . ."

RE: San Carlos Mineral Strip Act	Pub. L. No. 101-447, § 7, 104 Stat. 1047, 1048 (1990).	"Nothing in this Act shall affect or modify any valid entry or other valid existing rights under the mining laws of the United States."
RE: Timbisha Shoshone Homeland Act	Pub. L. No. 106-423, § 5, 114 Stat. 1875, 1878 (2000).	"Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act on the land described. . . ."
RE: Santo Domingo Pueblo Claims Settlement Act	Pub. L. No. 106-425, § 5(b)(4), 114 Stat. 1890, 1895 (2000).	"[S]ubject to valid existing rights and rights of public and private access. . . ."
RE: New Mexico Trust Lands	Pub. L. No. 108-66, § 6(1), 117 Stat. 876, 878 (2003).	"Nothing in this Act affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that is in existence before the date of enactment of this Act."
RE: Colorado River Indian Reservation Boundary Correction Act	Pub. L. No. 109-47, § 6(a), 119 Stat. 451, 453 (2005).	"The restored lands . . . shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands. . . ."
RE: Ojito Wilderness Act	Pub. L. No. 109-94, § 3(c), 119 Stat. 2106, 2106 (2005).	"Subject to valid existing rights. . . ."
RE: Public Domain Lands to Utu Utu Gwaitu Paiute Tribe	Pub. L. No. 109-421, § 1(a), 120 Stat. 2889, 2889 (2006).	"Subject to valid existing rights. . . ."
RE: Pechanga Band of Luiseno Mission Indians Transfer Act	Pub. L. No. 110-383, § 2(a)(1), 122 Stat. 4090, 4090 (2007).	"[S]ubject to valid existing rights. . . ."

RE: Omnibus Public Land Management Act, Transfer of Land into Trust for Shivwits Band of Paiute Indians	Pub. L. No. 111-11, § 1982(b)(3)(A), 123 Stat. 991, 1094 (2009).	"Nothing in this section affects any valid right in existence on the date of enactment of this Act. . . ."
RE: Shingle Springs Land Conveyance	Pub. L. No. 113-127, § 1(a), 128 Stat. 1424, 1424 (2014).	"[S]ubject to valid existing rights and management agreements. . . ."
RE: Nevada Native Nations Land Act	Pub. L. No. 114-232, § 3(a)(2), 130 Stat. 958, 958 (2016).	"Subject to valid existing rights. . . ."
RE: John D. Dingell, Jr. Conservation, Management, and Recreation Act, Pascua Yaqui Tribe Land Conveyance	Pub. L. No. 116-9, § 1007(c)(1)(A), 133 Stat. 580, 592 (2019).	"Subject to valid existing rights. . . ."
RE: John D. Dingell, Jr. Conservation, Management, and Recreation Act, Off-Highway Vehicle Recreation Areas	Pub. L. No. 116-9, § 1404(a)(2), 133 Stat. 580, 710 (2019).	"[S]ubject to all easements, covenants, conditions, restrictions, withdrawals, and other matters of record in existence on the date of enactment of this title."
RE: Leech Lake Band of Ojibwe Reservation Restoration Act	Pub. L. No. 116-255, § 2(c)(1), 134 Stat. 1139, 1140 (2020).	"Subject to valid existing rights. . . ."

Table 2. Statutory Provisions Restricting and/or Terminating Grazing Privileges

Title	Citation	Content
RE: Grand Canyon National Park Enlargement Act	Pub. L. No. 93-620, § 10(d), 88 Stat. 2089, 2093 (1975).	"The Secretary shall permit any person presently exercising grazing privileges pursuant to Federal permit or lease . . . to continue in the exercise thereof, but no permit or renewal shall be extended beyond the period ending ten years from the date of enactment of this Act, at which time all rights of use and occupancy of the lands will be transferred to the tribe subject to the same terms and conditions as the

		other lands included in the reservation in paragraph. . . ."
RE: Bureau of Land Management Lands to Reno Sparks Indian Colony	Pub. L. No. 99-389, § 2(a)(2), 100 Stat. 828, 829 (1986).	"[W]ithin thirty days after the date of enactment of this Act, the Secretary of the Interior shall cancel all grazing permits and leases on the following described land . . . comprising 1,920 acres more or less. . . ."
RE: Omnibus Indian Advancement Act, California Indian Land Transfer Act	Pub. L. No. 106-568, § 903(b), 114 Stat. 2868, 2923 (2000).	"Grazing preferences on lands described . . . shall terminate 2 years after the date of the enactment of this Act."

B. Conservation

Eleven statutes include provisions specifically related to the conservation and/or preservation of transferred land. Some of these are broadly stated in terms of environmental protection and stewardship, but others go further and provide stronger protections than afforded under generally applicable federal land laws.

An example of the latter is provided in the return of Blue Lake to Taos Pueblo. Before the transfer, Blue Lake was administered under the highly discretionary multiple-use mandate governing the Carson National Forest.[78] This was a significant concern of the Taos Pueblo, as multiple interests wanted to use their area for recreation, mineral development, and logging.[79] The Secretary of Agriculture issued a conditionally-renewable permit to allow the Taos to use the area for cultural purposes, but that permit left most of the watershed subject to a highly discretionary multiple-use paradigm.[80] During the hearings for H.R. 471, a delegation from Taos Pueblo testified how difficult it was to "tolerate the present permit system under which the sacred land is treated on the one hand as an Indian special-use area, on the other as a public multiple-use area."[81]

Upon transfer of the Blue Lake area, multiple-use management was replaced by strong conservation mandates prescribed by the transfer legislation.[82] Other than tribal use for traditional purposes, the land "shall remain forever wild and shall be maintained as a wilderness."[83] Compared with the USFS's discretionary

78. R.C. GORDON-MCCUTCHAN, THE TAOS INDIANS AND THE BATTLE FOR BLUE LAKE 12 (1995).

79. Bodine, *supra* note 5, at 25.

80. *Id.* at 26–27.

81. *Taos Indians–Blue Lake Amendments: Hearings before the Subcomm. on Indian Affs. of the Comm. on Interior and Insular Affs.*, 91st Cong. 115 (1970) [hereinafter *Blue Lake Senate Hearing*] (statement of Taos Pueblo Delegation).

82. Blue Lake to Taos Pueblo, Pub. L. No. 91-550, § 4(b), 84 Stat. 1437, 1438–39 (1970); *see infra* Appendix A and accompanying text.

83. Blue Lake to Taos Pueblo, Pub. L. No. 91-550, § 4(b), 84 Stat. at 1438.

multiple-use mandate, the Blue Lake area now receives much more enforceable and permanent protections.[84]

The Bison Range restoration to the CSKT provides another example of how conservation is prescribed and maintained through a land transfer statute. As a unit of the National Wildlife Refuge System, the National Bison Range was governed by the laws and regulations applicable to the Refuge System and the 1908 National Bison Range Enabling Act.[85] As such, conservation was the dominant use of the National Bison Range, but compatible wildlife-dependent recreational uses could be authorized by the refuge manager.[86]

The Bison Range transfer legislation states that post-transfer, the CSKT shall manage the land "solely for the care and maintenance of bison, wildlife, and other natural resources."[87] Other than public access and education, the transfer legislation does not expressly authorize any other recreational uses of the land. Conservation remains the dominant value in Bison Range management even though it is no longer part of the larger dominant use system.

Table 3. Statutory Provisions Related to Conservation

Title	Citation	Content
RE: Blue Lake to Taos Pueblo	Pub. L. No. 91-550, § 4(b), 84 Stat. 1437, 1438–1439 (1970).	"[A]ll subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe . . . The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands. . . ."
RE: Omnibus Consolidated Appropriations Act, Coquille Tribal Forest	Pub. L. No. 104-208, § 501(a)(5), 110 Stat. 3009, 3009-538 (1997).	"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. . . ."
RE: Timbisha Shoshone Homeland Act	Pub. L. No. 106-423, § 5(b)(3)(A), 114 Stat. 1875, 1878 (2000).	"Recognizing the mutual interests and responsibilities of the Tribe and the National Park Service in and for the conservation and protection of the resources in the

84. *Id.*; *see infra* Appendix A and accompanying text.

85. *See generally* U.S. FISH AND WILDLIFE SERV., NATIONAL BISON RANGE COMPREHENSIVE CONSERVATION PLAN, (2019) [hereinafter BISON RANGE CONSERVATION PLAN].

86. *Id.* at 1.

87. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. DD § 12(c)(2)(C), 134 Stat. 1182, 3031 (2020).

		area . . . development in the area shall be limited to. . . ."
RE: New Mexico Trust Lands	Pub. L. No. 108-66, § 5(c), 117 Stat. 876, 878 (2003).	"Subject to criteria developed by the Pueblos in concert with the Secretary, the trust land may be used only for traditional and customary uses or stewardship conservation. . . ."
RE: Washoe Indian Tribe Trust Land Conveyance	Pub. L. No. 108-67, § 4(a)(1), 117 Stat. 880, 881 (2003).	"[T]he Tribe and members of the Tribe shall limit the use of the parcel to traditional and customary uses and stewardship conservation for the benefit of the Tribe. . . ."
RE: Ojito Wilderness Act	Pub. L. No. 109-94, § 4(d)(1), 119 Stat. 2106, 2109 (2005).	"[S]ubject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses. . . ."
RE: Pechanga Band of Luiseno Mission Indians Land Transfer Act	Pub. L. No. 110-383, § 2(h)(1), 122 Stat. 4090, 4092 (2007).	"[M]ay be used only as open space and for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources thereon. . . ."
RE: Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe	Pub. L. No. 111-11, §§ 2601(h)(4)(B)(I)-(II), 123 Stat. 991, 1115 (2009).	"[L]imit the use of the land to (I) traditional and customary uses; and (II) stewardship conservation for the benefit of the Tribe. . . ."
RE: Quileute Indian Tribe Tsunami and Flood Protection	Pub. L. No. 112-97, § 1(g)(4)(B), 126 Stat. 257, 260 (2012).	"[S]hall be subject to a conservation and management easement. . . ."
RE: Sandia Pueblo Settlement Technical Amendment Act	Pub. L. No. 113-119, § 2(2)(A)(i), 128 Stat. 1185, 1185 (2014).	"[S]ubject to the restriction enforced by the Secretary of the Interior that the land remain undeveloped, with the natural characteristics of the land to be preserved in perpetuity. . . ."
RE: Division DD, Consolidated Appropriations Act, National Bison Range Restoration	Pub. L. No. 116-260, div. DD § 12(c)(2) (C),134 Stat. 1182, 3031 (2021).	"The land restored . . . shall be managed by the Tribes . . . solely for the care and maintenance of bison, wildlife, and other natural resources, including designation or naming of the restored land."

C. Traditional Purposes

Five statutes include provisions related to managing transferred lands for traditional purposes. Three of these prescribe management for traditional purposes and stewardship exclusively, while two mention traditional use without prohibiting other uses. The Blue Lake legislation offers an early and clear example of the former.

Blue Lake, the Pueblo's primary water supply and a religious focal point since time immemorial was located on National Forest System Lands.[88] During the hearings for H.R. 471, the Taos Delegation made it clear that they needed the land to be restored "for religious and traditional use," and for the "protection of [their] religious privacy."[89] The Taos and those testifying on their behalf maintained that they only desired the land for those traditional purposes.[90] The Taos' desire to have the land restored for traditional use is reflected in Congress' prescription that the land be used only for traditional purposes and otherwise be maintained as a wilderness.

The Grand Canyon National Park Enlargement Act provides another example. The Act transferred 185,000 acres to the Havasupai Tribe and specified that "the lands may be used for traditional purposes, including religious purposes and the gathering of, or hunting for wild or native foods, materials for paints and medicines. . . ."[91] Similar to Blue Lake, "except for the uses permitted [by the Act] . . . the lands hereby transferred to the tribe shall remain forever wild. . . ."[92]

Conversely, the land administration provisions for the Coquille Tribal Forest do not limit land use to traditional purposes only.[93] In their efforts to have the land first placed into trust and then to have the management standards amended, the Coquille Tribe made it clear that timber revenue from this land was necessary for self-governance and sovereignty.[94] A traditional use mandate would be contrary to the Tribe's desired use of the land.

Table 4. Statutory Provisions Related to Traditional Purposes

Title	Citation	Content
RE: Blue Lake to Taos Pueblo	Pub. L. No. 91-550, § 4(b), 84 Stat. 1437, 1438 (1970).	"[S]hall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use. . . ."

88. Bodine, *supra*, note 5, at 24–25.

89. *Blue Lake Senate Hearing*, *supra* note 81, at 115-16 (statement of Taos Pueblo Delegation).

90. *See, e.g.*, *id.* at 108, 116, 136.

91. Grand Canyon National Park Enlargement Act, Pub. L. No. 93-620, § 10(b)(1), 88 Stat. 2089, 2092 (1975).

92. *Id.* § 10(b)(7).

93. Western Oregon Tribal Fairness Act, Pub. L. No. 115-103, tit. III § 301(1), 131 Stat. 2253, 2258 (2018).

94. H.R. REP NO. 115-204, at 4 (2017).

RE: Grand Canyon National Park Enlargement Act	Pub. L. No. 93-620, § 10(b)(1), 88 Stat. 2089, 2092 (1975).	"[T]he lands may be used for traditional purposes, including religious purposes and the gathering of, or hunting for, wild or native foods, materials for paints and medicines. . . ."
RE: New Mexico Trust Lands	Pub. L. No. 108-66, § 5(c), 117 Stat. 876, 878 (2003).	"[T]he trust land may be used only for traditional and customary uses or stewardship conservation. . . ."
RE: Washoe Indian Tribe Trust Land Conveyance	Pub. L. No. 108-67, § 4(a)(1), 117 Stat. 880, 881 (2003).	"[T]he Tribe and members of the Tribe shall limit the use of the parcel to traditional and customary uses and stewardship conservation for the benefit of the Tribe. . . ."
RE: Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe	Pub. L. No. 111-11, §§ 2601(h)(4)(B)(i)(I)-(II), 123 Stat. 991, 1115 (2009).	"[T]he Tribe shall limit the use of the land [above the 5,200′ elevation contour] to traditional and customary uses; and stewardship conservation for the benefit of the Tribe. . . ."

D. Public Access and Rights of Way

Five statutes expressly prescribe non-member access to the restored parcel of land for education, hunting, fishing, and types of recreation. For example, the Colorado River Indian Reservation Boundary Correction Act mandates that "hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes."[95]

Much more common are prescriptions for access through transferred lands to access adjacent federal, state, and private lands. Fourteen of the transfers included easements or rights-of-way for this purpose. The Washoe Indian Tribe Trust Land Conveyance Act specifies that the transfer is "subject to reservation . . . of a nonexclusive easement for public and administrative access . . . to National Forest System land. . . ."[96] This example expressly authorizes both administrative and public access across the parcel to adjacent federal public land.[97] Public Law 95-499 (Re: Conveyance of Bureau of Land Management Lands to Pueblo of Zia) expressly authorizes administrative access and access for adjacent private landowners.[98] The

95. Colorado River Indian Reservation Boundary Correction Act, Pub. L. No. 109-47, § 5, 119 Stat. 451, 453 (2005).

96. Washoe Indian Tribe Trust Land Conveyance, Pub. L. No. 108-67, § 3(a), 117 Stat. 880, 881 (2003).

97. *Id.*

98. Conveyance of Bureau of Land Management Lands to Pueblo of Zia, Pub. L. No. 95-499, § 8, 92 Stat. 1679, 1680 (1978).

statute states that the transfer "shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns. . . ."[99]

The checkerboard of land ownership patterns in the West can make access to a particular parcel of land difficult. Rights-of-way and easements can ensure that federal land management agencies, the public, or both may continue to access lands through the restored parcel.

Table 5. Statutory Provisions Related to Public Access		
Title	**Citation**	**Content**
RE: Omnibus Consolidated Appropriations Act, Coquille Tribal Forest	Pub. L. No. 104-208, § 501(a)(8), 110 Stat. 3009, 3009-539 (1996).	"The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation. . . ."
RE: Santo Domingo Pueblo Claims Settlement Act	Pub. L. No. 106-425, § 5(c)(1), 114 Stat. 1890, 1895 (2000).	"[S]ubject to . . . rights of public and private access. . . ."
RE: Colorado River Indian Reservation Boundary Correction Act	Pub. L. No. 109-47, § 5, 119 Stat. 451, 453 (2005).	"Continued access to the restored lands . . . for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes."
RE: Ojito Wilderness Act	Pub. L. No. 109-94, § 4(d)(1), 119 Stat. 2106, 2109 (2005).	"[S]ubject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses. . . ."
RE: Division DD, Consolidated Appropriations Act, National Bison Range Restoration	Pub. L. No. 116-260, div. DD § 12(c)(3) (A), 134 Stat. 1182, 3031 (2021).	"In managing the land restored . . . the Tribes shall provide public access and educational opportunities. . . ."

Table 6. Statutory Provisions Related to Right of Way		
Title	**Citation**	**Content**
RE: Grand Canyon National Park Enlargement Act	Pub. L. No. 93-620, § 10(b)(6), 88 Stat. 2089, 2092 (1975).	"[N]onmembers of the tribe shall be permitted to have access across such lands at locations established by the Secretary in consultation

99. *Id.*

		with the Tribal Council in order to visit adjacent parklands. . . ."
RE: Conveyance of Bureau of Land Management Lands to Pueblo of Zia	Pub. L. No. 95-499, § 8, 92 Stat. 1679, 1680 (1978).	"The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns. . . ."
RE: Conveyance of Forest Service Land to Tule River Tribe	Pub. L. No. 96-338, § 3(b), Stat. 1067, 1067–1068 (1980).	"The transfer under the first section of this Act shall be subject to such right-of-way . . . as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands. . . ."
RE: Establishing a Reservation for the Confederated Tribes of Siletz Indians	Pub. L. No. 96-340, § 3, 94 Stat. 1072, 1074 (1980).	"Such lands shall be subject to the right of the Secretary of the Interior to establish, without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or to serve adjacent or nearby Federal lands."
RE: Navajo Tribe Land Exchange	Pub. L. No. 97-287, § 3(a), 96 Stat. 1225, 1225 (1982).	"Lands received by the Navajo Tribe . . . shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe. . . ."
RE: Expansion of Quinault Indian Reservation	Pub. L. No. 100-638, §§ 6-7(a), 102 Stat. 3327, 3328–3329 (1988).	"The Secretary of Agriculture shall reserve permanent easements for the purpose of continuing access, including public access, to National Forest Systems lands on Forest Service roads . . . The Secretary of the Interior shall allow such additional rights-of-way through lands referred to . . . to provide access to and

		management of National Forest System lands, including public access. . . ."
RE: Washoe Indian Tribe Trust Land Conveyance	Pub. L. No. 108-67, § 3(a), 117 Stat. 880, 881 (2003).	"[S]ubject to reservation to the United States of a nonexclusive easement for public and administrative access over Forest Development Road #15N67 to National Forest System land, to be administered by the Secretary of Agriculture."
RE: Colorado River Indian Reservation Boundary Correction Act	Pub. L. No. 109-47, § 6(b), 119 Stat. 451, 453 (2005).	"Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way . . . for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders. . . ."
RE: Ojito Wilderness Act	Pub. L. No. 109-94, § 4(e)(2)(A), 119 Stat. 2106, 2109 (2005).	"The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired. . . ."
RE: Omnibus Public Land Management Act, Correction of Skunk Harbor Conveyance	Pub. L. No. 111-11, § 2601(i)(c), 123 Stat. 991, 1116 (2009).	"Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to, or use of, land remaining within the Lake Tahoe Basin Management Unit after the conveyance . . . including access to, and use of, the beach and shoreline areas adjacent to the portion of land conveyed. . . ."
RE: Quileute Indian Tribe Tsunami and Flood Protection	Pub. L. No. 112-97, § 1(g)(4)(B), 126 Stat. 257, 260 (2012).	"[S]hall be subject to a conservation and management easement. . . ."
RE: Nevada Native Nations Land Act	Pub. L. No. 114-232, § 3(b)(4), 130 Stat. 958, 959 (2016).	"[S]ubject to the reservation of an easement on the conveyed land for a road to provide access to adjacent National Forest System land for use by the Forest Service for administrative purposes."
RE: Western Oregon Tribal Fairness Act	Pub. L. No. 115-103, § 204(d)(2)(B),	"[T]he Confederated Tribes shall continue the access provided by the reciprocal right-of-way agreements . . . in perpetuity."

	131 Stat. 2253, 2257 (2018).	
RE: John D. Dingell, Jr. Conservation, Management, and Recreation Act, Off-Highway Vehicle Recreation Areas	Pub. L. No. 116-9, § 1404(a)(3), 133 Stat. 580, 710 (2019).	"The Federal land over which the right-of-way for the Los Angeles Aqueduct is located . . . shall not be taken into trust for the Tribe."

E. Restrictions on Economic and Resource Development

Seven statutes include explicit restrictions on various forms of economic and resource development. The Grand Canyon National Park Enlargement Act, which placed 185,000 acres of Grand Canyon National Park lands into trust for the Havasupai Tribe, states that "no commercial timber production, no commercial mining or mineral production, and no commercial or industrial development shall be permitted. . . ."[100] The Hoh Indian Tribe Safe Homelands Act similarly prohibits "commercial, residential [and] industrial" buildings or structures, and more broadly prohibits "any activity that would adversely affect the natural environment of the Federal land, except as otherwise provided by this Act."[101] Restrictions on development were often found in the same statutes that prescribed conservation practices and exclusive traditional use.

Only three statutes expressly authorize land development. For example, the Timbisha Shoshone Homeland Act authorizes "community and residential development," "economic development" and "the infrastructure necessary to support the level of development. . . ."[102] However, it is important to note that the lack of express authorization does not necessarily preclude development.

Table 7. Statutory Provisions Restricting Development

Title	Citation	Content
RE: Grand Canyon National Park Enlargement Act	Pub. L. No. 93-620, § 10(b)(5), 88 Stat. 2089, 2092 (1975).	"[N]o commercial timber production, no commercial mining or mineral production, and no commercial or industrial development shall be permitted on such land. . . ."
RE: New Mexico Trust Lands	Pub. L. No. 108-66, § 5(c), 117 Stat. 876, 878 (2003).	"Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments."

100. Grand Canyon National Park Enlargement Act, Pub. L. No. 93-620, § 10(b)(5), 88 Stat. 2089, 2092 (1975).

101. Hoh Indian Tribe Safe Homelands Act, Pub. L. No. 111-323, § 4(a)(1), 124 Stat. 3532, 3533–34 (2010).

102. Timbisha Shoshone Homeland Act, Pub L. No. 106-423, § 5(3)(A), 114 Stat. 1875, 1878 (2000).

RE: Washoe Indian Tribe Trust Land Conveyance	Pub. L. No. 108-67, § 4(a)(2), 117 Stat. 880, 881 (2003).	"[T]he Tribe . . . shall not permit any permanent residential or recreational development on, or commercial use of, the parcel (including commercial development, tourist accommodations, gaming, sale of timber, or mineral extraction)."
RE: Ojito Wilderness Act	Pub. L. No. 109-94, § 4(d)(2)(B), 119 Stat. 2106, 2109 (2005).	"[T]he use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed. . . ."
RE: Pechanga Band of Luiseno Mission Indians Land Transfer Act	Pub. L. No. 110-383, §§ 2(h)(2)-(3)(A), 122 Stat. 4090, 4092 (2007).	"There shall be no roads other than for maintenance purposes constructed on the lands transferred . . . There shall be no development of infrastructure or buildings on the land transferred. . . ."
RE: Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe	Pub. L. No. 111-11, §§ 2601(h)(4)(B)(ii)(I)-(II), 123 Stat. 991, 1115 (2009).	"[On the land above the 5,200′ elevation contour] the Tribe shall not permit any (I) permanent residential or recreational development on the land; or (II) commercial use of the land, including commercial development or gaming."
RE: Hoh Indian Tribe Safe Homelands Act	Pub. L. No. 111-323, § 4(a)(1)(B)(ii), 124 Stat. 3532, 3534 (2010).	"No commercial, residential, industrial, or other building or structure shall be constructed on the Federal land . . . The Tribe . . . shall not carry out any activity that would adversely affect the natural environment of the Federal land, except as otherwise provided by this Act."

Table 8. Statutory Provisions Authorizing Development		
Title	**Citation**	**Content**
RE: Timbisha Shoshone Homeland Act	Pub. L. No. 106-423, §§ 5(b)(3)(A)-(B), 114 Stat. 1875, 1878 (2000).	"[D]evelopment in the area shall be limited to (i) for purposes of community and residential development, (ii) for purposes of economic development, and (iii) the infrastructure necessary to support the level of development described in clauses (i) and (ii) . . . the National Park Service and the Tribe are authorized to negotiate mutually agreed upon, visitor-related economic development in lieu of the development set forth in that subparagraph if such alternative development will have no greater environmental impact than the development set forth in that subparagraph."
RE: Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe	Pub. L. No. 111-11, § 2601(h)(4)(C), 123 Stat. 991, 1115 (2009).	"[T]he Tribe shall limit the use of the land below the 5,200′ elevation to (i) traditional and customary uses; (ii) stewardship conservation for the benefit of the Tribe; and (iii)(I) residential or recreational development; or (II) commercial use."
RE: Leech Lake Band of Ojibwe Reservation Restoration Act	Pub. L. No. 116-255, § 2(a)(5), 134 Stat. 1139, 1140 (2020).	"[O]n reacquisition by the Tribe of the Federal land, the Tribe (A) has pledged to respect the easements, rights-of-way, and other rights described . . . and (B)(i) does not intend immediately to modify the use of the Federal land; but (ii) will keep the Federal land in tax-exempt fee status as part of the Chippewa National Forest until the Tribe develops a plan that allows for a gradual subdivision of some tracts for economic and residential development by the Tribe."

F. Consultation and Land Use Plans

Eight statutes prescribe types of required consultation between tribes and federal agencies, and four of these require the tribe and agency to jointly develop land use plans. Even after the land is removed from BLM, USFS, USFWS, or NPS jurisdiction, the agency that previously managed the land may remain involved in the trust land due to the prescribed consultation practices.[103] For example, upon transfer of land from the National Park Service to the Eastern Band of Cherokee Indians, those parties were required to "enter into government-to-government consultations" and jointly "develop protocols to review planned construction on the Ravensford tract."[104]

Every federal public land management agency has a planning mandate prescribed by Congress. Depending on the agency, these plans have various procedural and substantive requirements that are designed to promote accountability and public involvement.[105] Agency actions must remain consistent with the content of the land use plan. In some transfer statutes, Congress requires the Tribe to maintain a publicly available management plan, much like the plans that public land agencies are required to produce.[106] This means that the tribe has a statutory duty to keep nonmembers informed of trust land management. However, the transfer statutes that require management plans do not specify how they are to be created. In other words, the tribal management plans are not necessarily created pursuant to a particular planning statute.

The Bison Range provides one example. Prior to restoration, the Bison Range was managed as a unit of the National Wildlife Refuge System.[107] The Fish and Wildlife Service is required by law to produce a comprehensive conservation plan (CCP) for every wildlife refuge.[108] CCPs provide long-range guidance and management direction to achieve the purposes of a refuge.[109] USFWS notably failed to produce a CCP for the National Bison Range within the required timeline and had to be compelled by the judiciary to do so.[110] The Bison Range transfer legislation, on the other hand, requires the CSKT to "have a publicly available management plan for the land, bison, and natural resources" at all times.[111] In this case, Congress wanted to ensure that publicly available land use planning continues even after the land is removed from the public domain.[112] The Bison Range transfer legislation does not mandate that the land use plan be prepared in consultation with USFWS.

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103. *See infra* Table 9.

104. Eastern Band of Cherokee Indians Land Exchange Act of 2003, Pub. L. No. 108-108, § 138(d)(1), 117 Stat. 1241, 1273 (2003).

105. *See infra* Table 9.

106. *See infra* Table 9.

107. *See generally* BISON RANGE CONSERVATION PLAN, *supra* note 85.

108. National Wildlife Refuge System, 16 U.S.C. § 668dd (2022).

109. *602 FW 3 - Comprehensive Conservation Planning Process*, U.S. FISH AND WILDLIFE SERV. (June 21, 2000), https://perma.cc/8GG7-9HW7.

110. *See e.g.*, Memorandum in Support of Plaintiffs' Motion for Summary Judgement 1, Reneau v. U.S. Fish and Wildlife Service, 1:16-cv-00966-TSC (filed Mar. 10, 2017).

111. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. DD § 12(c)(3)(B), 134 Stat. 1182, 3031 (2020).

112. *See id.*

Table 9. Statutory Provisions Requiring Consultation and Land Use Planning		
Title	**Citation**	**Content**
RE: Grand Canyon National Park Enlargement Act	Pub. L. No. 93-620, §§ 10(b)(4)-(6), 88 Stat. 2089, 2092 (1975).	"[A] study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land . . . which shall not be inconsistent with, or detract from, park uses and values . . . such plan shall be made available . . . for public review and comment . . . [N]onmembers of the tribe shall be permitted to have access across such lands at locations established by the Secretary in consultation with the Tribal Council in order to visit adjacent parklands, and with the consent of the tribe, may be permitted to enter and temporarily utilize lands within the reservation in accordance with the approved land use plan. . . ."
RE: Omnibus Consolidated Appropriations Act, Coquille Tribal Forest	Pub. L. No. 104-208, § 501(a)(4)(A), 110 Stat. 3009, 3009-538 (1997).	"[T]he Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest."
RE: Timbisha Shoshone Homeland Act	Pub. L. No. 106-423, § 6(a), 114 Stat. 1875, 1881 (2000).	"In order to fulfill the purposes of this Act and to establish cooperative partnerships for purposes of this Act, the National Park Service, the Bureau of Land Management, and the Tribe shall enter into government-to-government consultations and shall develop protocols to review planned development in the Park."
RE: Department of the Interior and Related Agencies Appropriations Act, Eastern Band of Cherokee Indians Land Exchange Act	Pub. L. No. 108-108, §§ 138(d)(1)-(2), 117 Stat. 1241, 1273 (2003).	"[T]he Director of the National Park Service and the Eastern Band of Cherokee Indians shall enter into government-to-government consultations and shall develop protocols to review planned construction on the Ravensford

		tract. The Director of the National Park Service is authorized to enter into cooperative agreements with the Eastern Band for the purpose of providing training, management, protection, preservation, and interpretation of the natural and cultural resources on the Ravensford tract . . . [and] shall develop mutually agreed upon standards for size, impact, and design of construction consistent with the purposes of this section on the Ravensford tract."
RE: Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe	Pub. L. No. 111-11, § 2601(h)(4)(D), 123 Stat. 991, 1115 (2009).	"[T]he Secretary of Agriculture, in consultation and coordination with the Tribe, may carry out any thinning and other landscape restoration activities on the land that is beneficial to the Tribe and the Forest Service."
RE: Hoh Indian Tribe Safe Homelands Act	Pub. L. No. 111-323, § 4(b), 124 Stat. 3532, 3534 (2010).	"The Secretary and the Tribe shall enter into cooperative agreements (A) for joint provision of emergency fire aid . . . (B) to provide opportunities for the public to learn more regarding the culture and traditions of the Tribe . . . The Secretary and the Tribe shall work cooperatively on any other issues of mutual concern relating to land taken into trust for the benefit of the Tribe pursuant to this Act."
RE: Nevada Native Nations Land Act	Pub. L. No. 114-232, § 4(b)(2), 130 Stat. 958, 960–961 (2016).	"[T]he Secretary, in consultation and coordination with the applicable Indian tribe, may carry out any fuel reduction and other landscape restoration activities, including restoration of sage grouse habitat, on the land that is beneficial to the Indian tribe and the Bureau of Land Management. . . ."
RE: Division DD, Consolidated	Pub. L. No. 116-260, div. DD §	"In managing the land restored . . . the Tribes shall . . . at all times,

Appropriations Act, National Bison Range Restoration	12(c)(3)(B), 134 Stat. 1182, 3031 (2021).	have a publicly available management plan for the land, bison, and natural resources, which shall include actions to address management and control of invasive weeds."

IV. EXAMPLES

This section provides additional background and context about four statutes transferring federal public lands to Tribal trust status. These examples help explain some of the historical events and political catalysts leading to the legislation and provide important background about the land management provisions found in the statutes.

A. Blue Lake on Carson National Forest to Taos Pueblo

1. Historical Context

In 1970, the United States' federal policy for American Indians officially shifted from termination to self-determination.[113] In the same year, President Nixon supported the return of Blue Lake, a sacred tribal site in northern New Mexico, to Taos Pueblo.[114]

The United States acquired parts of present-day New Mexico through the treaty of Guadalupe Hidalgo in 1848.[115] Although the Taos Indians traditionally used at least 300,000 acres in the area, the United States recognized a Spanish land grant to the Taos Indians of approximately 17,400 acres upon acquisition of the Territory.[116] This land grant did not include Blue Lake, an invaluable cultural resource for the Taos Indians.[117] The Blue Lake area and all other acquired land became public land, and white settlers began to arrive.[118]

The Taos began attempting to officially negotiate with the federal government in 1903, when American settlement around Blue Lake began to interfere with Taos cultural practices.[119] Blue Lake was the Pueblo's primary water supply and a religious focal point, but settlers wished to use the area for recreation, mineral prospecting, and timber. Their initial complaint was disregarded.[120] In 1906, Theodore Roosevelt proclaimed the Blue Lake lands to be a part of what is now Carson National Forest.[121] The proclamation officially made the land subject to the 1897 Organic Act and later the Multiple Use Sustained Yield Act of 1960.[122] This

113. *See supra* notes 1–5 and accompanying text.
114. Bodine, *supra* note 5, at 28.
115. *Id.* at 24.
116. *Id.*
117. *Id.* at 24–25.
118. *Id.*
119. *Id.* at 25.
120. *Id.*
121. *Id.*
122. *See generally* GORDON-MCCUTCHAN, *supra* note 78.

catalyzed the Taos Pueblo's 64-year fight to assert that Blue Lake was wrongfully appropriated and to have it returned.[123]

In response to Taos' initial advocacy, the Commissioner of Indian Affairs recommended an executive order reservation for the Taos Indians which would be comprised of 44,640 acres of Carson National Forest land in 1912.[124] The Secretary of Agriculture rejected the recommendation.[125] In 1926, the Pueblo Lands Board determined that the Taos Indians were entitled to compensation for the loss of their land to settlers.[126] The Indians offered to waive their right to the money in exchange for the return of Blue Lake.[127] The offer was rejected, and the Taos received nothing.[128]

In the early 1930s, some negotiations led to permit agreements to allow the Taos to utilize the land for cultural purposes and significantly limit the access of outsiders.[129] However, Indian access was still limited by Forest Service supervision, so outsiders continued to access the area.[130] Through many discussions with the federal government, the Taos Pueblo consistently rejected monetary compensation for the land.[131] Even after the Indian Claims Commission, a special court to which tribes could present claims for land they had lost or had been inadequately compensated for approved their claim to land in 1965, the Taos continued to demand the return of the Blue Lake lands by an act of Congress.[132] The Taos wanted the land, not money.[133] After multiple failed attempts to pass legislation,[134] congressional hearings began on H.R. 471, which would place 48,000 acres of the Blue Lake area in trust for Taos Pueblo.[135]

The Taos began connecting their claim to the land to the protection of their religion.[136] As greater emphasis was placed on multiple-use principles and recreation, the Taos' practice of their private religion was increasingly threatened.[137] The Taos' claim began to gain national attention.[138] The day before the hearings began, President Nixon voiced his support of the Blue Lake legislation in his special message to Congress on Indian Affairs—the same message that began the era of self-determination:

> It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and

123. Bodine, *supra* note 5, at 25.
124. *Id.* at 26.
125. *Id.*
126. *Id.*
127. *Id.*
128. *Id.*
129. *Id.*
130. *Id.* at 26–27.
131. *Id.* at 27.
132. *Id.*
133. *Id.*
134. *Id.*
135. *Blue Lake Senate Hearing*, *supra* note 81, at 48.
136. Bodine, *supra* note 5, at 27.
137. *Blue Lake Senate Hearing*, *supra* note 81, at 111 (Statement of William C. Schaab).
138. Bodine, *supra* note 5, at 28.

> insights of the Indian people . . . In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we suggest a policy in which the Federal government and the Indian community play complementary roles. But most importantly, we have turned from the question of whether the Federal government has a responsibility to Indians to the question of how that responsibility can best be furthered.[139]

Over the course of the hearing, the political opposition, which notably included Senators Anderson from New Mexico, Metcalf from Montana, and Jackson from Washington,[140] testified that the Pueblo did not have the capacity to manage the land properly, the existing land use permits were sufficient to protect religious practices, and that it would be unfair to grant land to the Taos but no other tribes that made land claims.[141] Most of all, the opposition feared that this action would threaten the integrity of the National Forest System and establish a "far-reaching, undesirable precedent" for federal public lands writ large.[142] A representative of the Sportsmen's Legislative Action Committee testified to this point:

> Some would indicate that there is not a precedent to be set by acting favorably on H.R. 471, however, they readily admit that the whole case rises or falls on the religious significance. We should be reminded that in a case involving the Pueblo of the Nambe, the Indian Claims Commission reported a great similarity between the Nambe and the Taos cases . . . there is hardly any reason to believe that if H.R. 471 becomes law that the Nambe Indians will not come in and ask for equal treatment.[143]

Testifying on behalf of the Taos in support of the legislation, former Secretary of the Interior Stewart Udall called the Taos case "singular."[144] Udall testified that no other tribe had made a claim solely on religious grounds, and no other tribe had been so persistent.[145] Many other witnesses were asked to explain how this claim would not establish the precedent feared by the opposition or dismantle the United States' system of public lands.[146] Stewart Udall stated, "I do not regard it as an opening wedge . . . I have come to believe that the Taos Pueblo have a very special and very singular relationship that can be distinguished from any other."[147]

William Schaab, special counsel for Taos Pueblo, elaborated on how the transfer would not be a threat to public lands or conservation values:

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139. Nixon Special Message, *supra* note 1.
140. Bodine, *supra* note 5, at 30.
141. GORDON-MCCUTCHAN, *supra* note 78, at 100.
142. *Blue Lake Senate Hearing*, *supra* note 81, at 14 (statement of Wayne N. Aspinall).
143. *Id.* at 203 (statement of Robert Gettys).
144. *Id.* at 59 (statement of Stewart L. Udall).
145. *See id.* at 58–59 (statement of Stewart L. Udall).
146. Bodine, *supra* note 5, at 28.
147. *Blue Lake Senate Hearing*, *supra* note 81, at 59 (statement of Stewart L. Udall).

> I also want to reject the idea that the enactment of this legislation would in some way be regarded as a threat to the integrity of the national forest system. National forest lands are disposed of every year when the disposition is in furtherance of the conservation program. A transfer of the Blue Lake area from a national forest reserve to an Indian reserve, with explicit provisions for conservation management, is in furtherance of the conservation program and at the same time a belated amends for a wrong committed 60 years ago.[148]

After fervent debate, Congress enacted legislation to restore Blue Lake to the Taos.[149] The bill passed 70 to 12 with 18 not voting.[150] Of the Subcommittee on Indian Affairs members, Senators Anderson of New Mexico, Metcalf of Montana, Jackson of Washington, Fannin of Arizona, and Hanson of Wyoming voted against the bill.[151]

2. The Statute

H.R. 471 became Public Law 91-550.[152] The Act removed 48,000 acres of the Carson National Forest and placed the land into trust for the Taos Indians by amending the legislation that previously governed the Blue Lake area.[153] In the transfer legislation, Congress prescribes certain management provisions and places limitations on land use. Public Law 91-550, makes clear, for example, the following:

> The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3,1964 (78 Stat, 890). With the consent of the tribe, but not otherwise, nonmembers of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands. . . .[154]

148. *Id.* at 112 (statement of William C. Schaab).

149. Bodine, *supra* note 5, at 30–31; Blue Lake to Taos Pueblo, Pub. L. No. 91-550, § 4(a), 84 Stat. 1437, 1437 (1970).

150. Bodine, *supra* note 5, at 30–31.

151. *Id.*

152. Blue Lake to Taos Pueblo, Pub. L. No. 91-550, § 4, 84 Stat. 1437, 1437–39 (1970).

153. *Id.* §4(a) at 1438.

154. *Id.* § 4(b).

The legislation states that the land is to be used for "traditional purposes only."[155] Apart from traditional uses, the land "shall remain forever wild and shall be maintained as a wilderness."[156] The Wilderness Act of 1964, which is cited in this transfer legislation, defines wilderness as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."[157] The purpose of the Wilderness Act is to preserve an area's "wilderness character," which is defined in the statute as being untrammeled, undeveloped, affected primarily by the forces of nature, and having "outstanding opportunities for solitude."[158] As such, a wilderness designation is the most restrictive form of conservation in the United States' system of federal public lands. To prescribe a wilderness model of management in the Blue Lake lands is to prohibit roads, the use of motor vehicles and motorized equipment, commercial enterprise, structures or instillations, and any form of development, except as necessary to meet requirements to administer the land as a wilderness area.[159] Therefore, this provision significantly limits the discretion of the Taos in managing the land but the provision was supported by the Pueblo whom advocated for the area's protection.

Taos Pueblo advocated for the return of Blue Lake to ensure solitude for religious practices and the preservation of the area's natural and cultural resources.[160] There is no evidence in the Congressional record that the Taos wanted Blue Lake restored for any other purpose.[161] During the bill's hearings, the Taos Pueblo Delegation repeatedly state these intentions to Congress:[162]

> H.R. 471 . . . would uphold those principles by placing the sacred area under the jurisdiction of the Interior Department in trust for Taos Pueblo—the normal arrangement for Indian lands—and by requiring that it be maintained forever in wilderness status in accordance with the most fundamental tenets of our religion . . . by providing for a trust title to the entire watershed and [e]nsuring that the area will remain "forever wild" as a wilderness defined by law, guarantees that our religious and cultural life will be protected and sustained. . . . The past and the future of our Indian heritage is in your hands.[163]

The transfer legislation also specifies that nonmembers are permitted to enter the land with the Tribe's consent "for purposes compatible with their

155. *Id.*

156. *Id.*

157. National Wilderness Preservation System, 16 U.S.C. § 1131 (1964); Pub. L. No. 91-550, § 4(b), 84 Stat. at 1438.

158. 16 U.S.C. § 1131.

159. 16 U.S.C. § 1131; Pub. L. No. 91-550, § 4(b), 84 Stat. at 1438.

160. *See generally Blue Lake Senate Hearing*, *supra* note 81.

161. *See generally id.*

162. According to the Blue Lake Senate Hearing, The Taos Pueblo Delegation included Querino Romero, governor; Juan de Jesus Romero, cacique; James Mirabel, senior councilman; Paul J. Bernal, council secretary and interpreter; John Marus, Manuel Reyna, Cruz Trujillo, and William C. Schaab, special counsel. *Id.* at 105.

163. *Id.* at 116–18 (statement of the Taos Delegation).

preservation as a wilderness."[164] Prior to the transfer legislation, the Blue Lake lands were operating under the 1933 permit agreement that significantly limited non-Indian use of the area.[165] The 1933 permit prohibited non-Indian access to the Blue Lake area during important August ceremonies, and access at other times required approval from both the Secretary of Agriculture and the Governor of the Pueblo.[166] Thus, access is not necessarily more limited post-transfer.

Over 50 years later, Blue Lake is still held in trust for and managed by the Taos as prescribed in the transfer legislation.[167] In recognition of their shared interest in the greater area's natural resources, the Taos acted as a cooperating agency during the preparation of the 2022 Carson National Forest Plan.[168]

B. Western Oregon Tribal Fairness Act

1. Historical Context

In the 1950s and 1960s, Congress terminated the federal reservations and recognitions of tribes across the country.[169] The termination era operated under the guise of liberating tribes from federal control, but the forced relocation, termination of tribal status, and revocation of federal support harmed native nations.[170] Most terminated tribes relinquished or lost their land.[171] Federal programs for education, health, welfare, and housing assistance were discontinued, and tribal governments became increasingly strained, dysfunctional, and divided.[172] In 1954, Congress passed the Western Oregon Termination Act to terminate the Cow Creek, Coquille, and Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.[173]

As federal policy shifted from termination to self-determination, Congress restored federal recognition of the Cow Creek, Coquille, and Confederated Tribes of Coos, Lower, Umpqua, and Siuslaw Indians.[174] However, treaty-making and the termination era left these tribes with mere fractions of their homelands.

The Cow Creek Tribe signed a Treaty with the United States in 1853, which was ratified by Congress in 1854.[175] Through this Treaty, the Tribe ceded 800 square

164. Pub. L. No. 91-550, § 4(b), 84 Stat. at 1438–39.

165. Bodine, *supra* note 5, at 26–27.

166. *Id.* at 26.

167. Pub. L. No. 91-550, §4(a), 84 Stat. at 1437; Rick Romancito, *Taos Pueblo celebrates 50th anniversary of the return of Blue Lake*, TAOS NEWS, https://perma.cc/XND8-VQAD (Dec. 13, 2020).

168. *Government Working Group*, U.S. FOREST SERV., https://perma.cc/MF2M-XS82 (last visited Apr. 8, 2023); 40 C.F.R. § 1501.8 (2023).

169. COHEN'S HANDBOOK, *supra* note 25, § 1.06, at 95–96.

170. *Id.*

171. *Id.*

172. *Id.*

173. *See* Western Oregon Indian Termination Act of 1954, Pub. L. No. 588, § 2, 68 Stat. 724, 724 (1954); H.R. REP. NO. 115-204 at 1–2 (2017).

174. *See* Cow Creek Band of Umpqua Tribe of Oregon, 25 U.S.C. §§ 712–715; *see also* Cow Creek Band of Umpqua Tribe of Indians Recognition Act, Pub. L. No. 97-391, § 3(a), 96 Stat. 1960, 1960 (1982); Coquille Restoration Act, Pub. L. No. 101-42, § 3(a), 103 Stat. 91, 91 (1989); Coos, Lower Umpqua, and Siuslaw Restoration Act, Pub. L. No. 98-481, § 3(a), 98 Stat. 2250, 2250 (1984); H.R. REP. NO. 115-204, at 1–3 (2017).

175. H.R. REP NO. 115-204, at 2 (2017).

miles of reservation lands in exchange for $12,000 of goods and services.[176] The federal government violated the terms of the Treaty and the federal government sold the ceded lands to settlers.[177] Upon the Tribe's restoration of federal recognition, the Tribe negotiated a $1.5 million settlement for the tribal land lost in the treaty, which they invested in education, housing, and economic development.[178] By 2017, the Tribe had approximately 4,471 acres of land held in trust.[179]

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians negotiated a treaty with the United States in 1855, but it was never ratified, and the terms were never realized.[180] A non-Indian bestowed 6 acres to the Tribes, which was placed into trust status and became the Tribe's reservation.[181] Congress restored the Confederated Tribes' recognition in 1984, which also granted the tribe one acre for the establishment of a reservation.[182] In 1998, Congress placed additional land in trust for the Confederated Tribes.[183] Combined with other donations and purchases, the Tribes' collective land base became 153 acres.[184]

The Coquille Tribe negotiated a treaty with the United States in the 1850s but it was never ratified.[185] Instead, the United States attempted to "forcibly relocate" the Coquille Tribe to the preexisting Coast Reservation.[186] Congress restored the Coquille Tribe's recognition in 1989.[187] The Act of Congress that restored recognition also required that the Secretary of the Interior develop a plan for the Tribe's self-sufficiency, which would include the restoration of 59,000 acres of ancestral lands.[188] However, the final plan only restored 5,410 acres, only 10% of the land required by the Coquille Restoration Act.[189] This parcel became known as the Coquille Forest.[190] Unlike other tribal forest lands, the Coquille Forest was statutorily required to comply with the management "standards and guidelines of adjacent federal lands."[191] This significantly reduced the Tribe's capacity to utilize their land and conduct timber harvests.

Upon re-recognition, the tribes of western Oregon commenced efforts to re-acquire their land. In 1997, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians launched an attempt to acquire federal lands.[192] Environmental

176. *Id.*

177. Anna V. Smith, *When Public Lands Become Tribal Lands Again*, HIGH COUNTRY NEWS (Aug. 16, 2019), https://perma.cc/PB9Q-LTF3.

178. H.R. REP NO. 115-204, at 2 (2017).

179. *Id.*

180. *Id.* at 3.

181. *Id.*

182. *Id.*; Coos, Lower Umpqua, and Siuslaw Restoration Act, Pub. L. No. 98-481, §§ 3(a), 7(b)(1), 98 Stat. 2250, 2250, 2253 (1984).

183. H.R. REP NO. 115-204, at 3 (2017).

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*; Coquille Restoration Act, Pub. L. No. 101-42, § 3(a), 103 Stat. 91, 91 (1989).

188. H.R. REP NO. 115-204, at 3 (2017); § 4(a), 103 Stat. at 92.

189. H.R. REP NO. 115-204, at 3 (2017).

190. *Id.*

191. *Id.* at 4.

192. Smith, *supra* note 178.

groups strongly opposed the idea, claiming that the land would lose environmental protections of federal law.[193] In 2013, Cow Creek's plans to acquire BLM land were caught in the crossfire of the endangered spotted owl controversy.[194] Cow Creek also attempted to purchase Oregon state forest lands in 2017 but could not afford the $220 million price tag.[195] Cow Creek attempted to partner with a local timber company to purchase the Elliott State Forest, but, yet again, environmental groups publicly opposed the partnership, and the sale did not occur.[196]

2. The Statute

Congressman DeFazio from Oregon introduced H.R. 1306, the Western Oregon Tribal Fairness Act, in March 2017.[197] Iterations of the bill passed in the House seven times but never made it through the Senate.[198] In early 2018, Congress passed the Western Oregon Tribal Fairness Act.[199] It contains three Titles: Cow Creek Umpqua Land Conveyance, Oregon Coastal Land Conveyance, and Amendments to Coquille Restoration Act.[200] Titles I and II place federal land in trust for the Cow Creek Band of the Umpqua Tribe and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, respectively.[201] Title III amends Coquille Forest management by requiring the Department of the Interior to manage the forest as Indian trust land.[202]

Titles I and II of the Western Oregon Tribal Fairness Act are similar in content. Both titles place land into trust for their respective Tribes and prescribe that land management and timber harvesting stay consistent with certain federal laws and regulations.[203] The legislation specifies that valid existing rights will remain in force, BLM will retain administrative access, and the land may not be used for any gaming activities.[204] Upon transfer, the land will no longer be subject to BLM's land use planning requirements.

Unlike Titles I and II, Title III of the Western Oregon Tribal Fairness Act does not place land into trust for the Coquille Tribe.[205] Rather, it contains amendments to the Coquille Restoration Act, which originally declared 5,400 acres of BLM land to be held in trust for the Coquille Tribe as the Coquille Tribal Forest.[206]

193. *Id.*
194. *Id.*
195. *Id.*
196. *Id.*
197. Western Oregon Tribal Fairness Act, Pub. L. No. 115-103, § 1(a), 131 Stat. 2253, 2253 (2018); H.R. REP NO. 115-204, at 4 (2017).
198. Smith, *supra* note 178.
199. Pub. L. No. 115-103, § 1(a), 131 Stat. at 2253.
200. *See generally id.*
201. *Id.* tit. I–II at 2253, 2255.
202. *Id.* tit. III § 301(1) at 2258.
203. *Id.* tit. I-II at 2253–56.
204. *Id.* § 104(c) at 2254.
205. *Id.* tit. III §301 at 2258–59.
206. *Id.*

The amendments are brief, but drastically change the management of the Coquille Tribal Forest by altering the originally prescribed land administration.[207]

The Coquille Restoration Act mandated that the Secretary of the Interior manage the Coquille Tribal Forest under applicable state and federal forestry and environmental laws, and subject to the "standards and guidelines" of nearby federal forest plans.[208] In practice, this meant that adjacent federal land managers determined most of the land management prescriptions for the Coquille Tribal Forest. [209] This is not how tribal trust lands are typically administered. The Coquille Tribal Forest was required to comply with additional management burdens that reduced the land available for timber harvest from 5,140 acres to 3,401 acres.[210] Limiting timber revenue and management authority was contrary to the Tribe and Congress' goals of self-governance.[211]

Title III of the Western Oregon Tribal Fairness Act removes the atypical management burdens placed on the Coquille Tribal Forest by requiring the Department of the Interior to manage the Coquille Tribal Forest according to the laws pertaining to tribal trust land.[212] The Coquille Tribal Forest must comply with federal laws on forestry activities, but no longer must comply with the specific forest plans of adjacent national forests.[213]

All three Titles require that general federal laws on forestry activities will continue to apply to the land, and specifically mention laws relating to the export of unprocessed logs. The USFS has long been concerned about regulating the sale of unprocessed logs from federal lands to maintain a viable domestic wood-processing industry.[214] This provision ensures that timber harvests on the trust land are still subject to this restriction, thereby remaining in line with the ideals of the Forest Service.

C. Chippewa National Forest Land to the Leech Lake Band of Ojibwe

1. Historical Context

The Leech Lake Band of Ojibwe (LLBO) signed the Treaty of Washington in 1855. The Tribe ceded territory to the federal government in exchange for a reservation of land and reserved rights to hunt, fish, and gather.[215]

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207. The original Coquille Restoration Act did not create the Coquille Tribal Forest. Rather, a 1996 Omnibus Appropriations Act amended the Coquille Restoration Act by creating the Coquille Tribal Forest. *See* Act of Sept. 30, 1996, Pub. L. No. 104-208, div. B tit. V § 501(a)(5), 110 Stat. 3009, 538–39 (1996).

208. H.R. REP NO. 115-204, at 4 (2017).

209. *Id.*

210. *Id.*

211. *Id.*

212. Western Oregon Tribal Fairness Act, Pub. L. No. 115-103, tit. III § 301(1), 131 Stat. 2253, 2258 (2018).

213. *Id.*

214. *See generally* U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-593, FEDERAL TIMBER SALES: FOREST SERVICE AND BLM SHOULD REVIEW THEIR REGULATIONS AND POLICIES RELATED TO TIMBER EXPORT AND SUBSTITUTION (2018).

215. *See, e.g.*, Treaty with the Chippewa, 1855, Chippewa-U.S., Feb. 22, 1855, 10 Stat. 1165; State v. Jackson, 16 N.W. 2d 752, 755 (Minn. 1944) (recognizing that, although the treaty was silent with regard

In 1889, the Nelson Act opened reservation lands in Minnesota for non-Indian settlement.[216] This resulted in significant non-Indian land ownership within the Leech Lake Indian Reservation and facilitated great injustices to the LLBO.[217] The Act allotted tribal members 40 to 160 acres, and all surplus lands became eligible for purchase by non-Indians.[218] Much of the land selected to be allotted was strategically located to keep large blocks of pine forest open for non-Indian harvest.[219] Upon the passage of the Nelson Act, the State of Minnesota illegally claimed that Tribal members were no longer permitted to hunt, fish, and gather on the reservation as the treaty promised.[220] An amendment to the Nelson Act, the "dead and burnt timber clause," allowed timber barons to purchase wood at a reduced price if it was burnt.[221] To reap the benefits of this amendment, non-Indians would start fires on the reservation and quickly harvest the wood.[222] Tensions quickly rose over access to timber resources and LLBO members were vocal about the damage done by the Nelson Act.[223]

The Morris Act of 1902 amended the Nelson Act and created the Minnesota Forest Reserve.[224] The Act stated an intent to uphold the federal trust obligation to American Indians by promoting the employment of Indian labor, dedicating timber sales to a trust account, and putting the supervision of timber under the federal government.[225] However, the creation of the Minnesota Forest Reserve did not end the timber conflicts.

In 1908, the Minnesota National Forest Act yet again amended the Nelson Act and officially established the Minnesota National Forest.[226] This Act expanded the boundaries of the forest, designated it a national forest, and contained provisions designed to benefit the Tribe, including shared decisional authority on timber valuation.[227] The Minnesota National Forest, which would later be renamed the Chippewa National Forest, was "the first national forest created by statute and the

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to hunting and fishing rights, such a "saving clause would have been superfluous, as 'the treaty was not a grant of rights to the Indians but a grant of rights from them-a reservation of those not granted.'" (Citations omitted)).

216. Nelson Act, ch. 24, 25 Stat. 642 (1889).

217. *See* LEECH LAKE BAND OF OJIBWE & UNITED STATES FOREST SERVICE, MATERIALS RELATED TO THE CO-MANAGEMENT OF THE CHIPPEWA NATIONAL FOREST 6 [hereinafter CHIPPEWA CO-MANAGEMENT BOOKLET].

218. *Id.* at 23.

219. *Id.* at 6.

220. *Id.*

221. *Id.*

222. *Id.*

223. *Id.* at 7.

224. Morris Act, ch. 1157, § 4, 32 Stat. 400, 400 (1902).

225. LEECH LAKE BAND OF OJIBWE & UNITED STATES FOREST SERVICE, MEMORANDUM OF UNDERSTANDING BETWEEN THE USDA FOREST SERVICE CHIPPEWA NATIONAL FOREST AND THE LEECH LAKE BAND OF OJIBWE OF THE MINNESOTA CHIPPEWA TRIBE 3 (2018) [hereinafter MEMO OF UNDERSTANDING].

226. Minnesota National Forest Act, ch. 193, § 1, 35 Stat. 268, 268 (1908).

227. *Id.* § 1, 5 at 270, 272.

only national forest created with provisions for the benefit of both the general public and American Indians. . . . "[228]

By the 1920s, the LLBO lost over 650,000 acres of Reservation land due to the Nelson Act and the failures of the federal government to honor its trust responsibility.[229] The LLBO maintained that all land lost under the Nelson Act should be restored to the Tribe and the promises of the treaties should be honored.[230] The State of Minnesota continued to claim that the Reservation and the rights reserved by the 1855 treaty were terminated when Congress passed the Nelson Act.[231]

In 1971, the LLBO challenged the State of Minnesota's enforcement of state game and fish laws on tribal members.[232] The State claimed that Congress intended to extinguish all Indian rights to the lands of the Leech Lake Reservation in 1889 with the passage of the Nelson Act.[233] The Court held in favor of the Tribe and stated that Congress did not intend to terminate the Reservation, and the Indians have the right to hunt, fish, and gather on the public lands and waters of the Leech Lake Reservation.[234]

The Chippewa National Forest became the largest land manager within the Leech Lake Reservation, as 90 percent of the Leech Lake Indian Reservation fell within the Chippewa National Forest.[235] In 2016, the Leech Lake Band of Ojibwe sent a letter to the Chief of the Forest Service expressing concern about vegetative conditions and requesting a review of forest management practices in the Chippewa National Forest.[236] Later that year, the USFS committed to formal consultation with the Tribe that would consider the Tribe's desired forest conditions and reflect the legal and cultural connection between the Tribe and the Chippewa National Forest.[237]

In 2018, the Forest Service and the Leech Lake Band of Ojibwe entered into a memorandum of understanding (MOU) to provide a framework of cooperation to jointly manage the Chippewa National Forest.[238] The MOU emphasized that decisions affecting Forest Service lands within the Leech Lake Reservation are decisions affecting both parties.[239] Government-to-government communication, accountability, early and meaningful involvement, and significant tribal participation in federally mandated planning processes are some of the agreed-upon terms of the MOU.[240]

228. MEMO OF UNDERSTANDING, *supra* note 226.
229. CHIPPEWA CO-MANAGEMENT BOOKLET, *supra* note 218, at 10.
230. *Id.*
231. *Id.* at 11.
232. Leech Lake Band of Chippewa Indians v. Herbst, 334 F. Supp. 1001, 1002 (D. Minn. 1971).
233. *Id.*
234. *Id.* at 1004, 1006.
235. CHIPPEWA CO-MANAGEMENT BOOKLET, *supra* note 218, at 9, 22.
236. *Id.* at 21.
237. MEMO OF UNDERSTANDING, *supra* note 226, at 5.
238. *Id.* at 1.
239. *Id.* at 5.
240. *Id.*

From 1948 to 1959, the BIA incorrectly interpreted an order from the Secretary of the Interior.[241] This misinterpretation resulted in the sale of LLBO tribal allotments without the consent of tribal landowners.[242] By the time the Secretary of the Interior was advised that these sales were illegal, the LLBO held the smallest percentage of its reservation lands of any Ojibwe bands in Minnesota.[243] A federal judge ruled that the land could be restored only through the legislative process.[244]

The LLBO sought the legislative restoration of the land to help restore its land base, protect tribal sacred sites, and build housing.[245] The Leech Lake Band of Ojibwe Reservation Restoration Act was originally introduced as S. 2599 in 2018.[246] A Senate hearing before the Committee on Indian Affairs occurred in July 2018.[247] During the hearing, the Deputy Chief of the National Forest System expressed concerns over the transfer, but was willing to work with the Committee on finalizing the bill:

> Fragmented ownership and boundaries resulting from the transfer could also lead to less access and fewer recreation opportunities on some areas of the national forest, impact planned and existing timber sale contracts, and affect more than 100 documented special use permits and rights of way for roads, utilities, railroads and cemeteries . . . We look forward to continuing to work with this committee to ensure the prosperity of the Leech Lake Band and all of the people who rely on the Chippewa National Forest.[248]

The Chairman of the LLBO responded to these concerns:

> The Leech Lake Band of Ojibwe has no immediate intention of changing the use of these lands. We would honor all current agreements and anticipate that these lands would be held until we develop a broader plan that will allow for a gradual subdivision of some of the tracts for economic and residential development. The land will be open to the . . . public to hunt, fish, explore, hike, bike and enjoy. . . .[249]

241. The findings section (2) of Pub. L. No. 116-255 (2020) provides some background: From 1948 – 1959, "the Bureau of Indian Affairs incorrectly interpreted an order of the Secretary of the Interior to mean that the Department of the Interior had the authority to sell tribal allotments without the consent of a majority of the rightful landowners." The practice ended in 1959, when the Secretary of the Interior was advised that the sales were illegal and ordered to cease conducting those sales. Leech Lake Band of Ojibwe Reservation Restoration Act, Pub. L. No. 116-255, § 2(a)(1), 134 Stat. 1139, 1139 (2020).

242. *Id.*

243. *Id.* § 2(a)(2).

244. *Id.* § 2(a)(3)(B).

245. *See S 2599, The Leech Lake Band of Ojibwe Reservation Restoration Act: Hearing Before the Comm. on Indian Affs.*, 115th Cong. 4–5 (2018) [hereinafter *Leech Lake Band of Ojibwe Reservation Restoration Act Hearing*] (Statement of Faron Jackson, Sr.).

246. *Id.* at 1.

247. *Id.*

248. *Id.* at 3–4 (Statement of Leslie Weldon).

249. *Id.* at 5 (Statement of Faron Jackson, Sr.).

2. The Statute

Congress passed S. 199, the Leech Lake Band of Ojibwe Reservation Restoration Act, in 2020.[250] The Act placed approximately 11,760 acres of Chippewa National Forest land in trust for the Tribe.[251] The Senate report accompanying the bill states that the Act intends to restore "Tribal land that was lost . . . when many of its members were illegally dispossessed of their land via 'secretarial transfers'" during the 1950s.[252]

The Leech Lake Band of Ojibwe Reservation Restoration Act became Public Law 116-255.[253] It contains the following land administration provisions:

> A comprehensive review of the Federal land demonstrated that (A) a portion of the Federal land is encumbered by (i) utility easements; (ii) rights-of-way for roads; and (iii) flowage and reservoir rights; and (B) there are no known cabins, campgrounds, lodges, or resorts located on any portion of the Federal land . . . On reacquisition by the Tribe of the Federal land, the Tribe (A) has pledged to respect the easements, rights-of-way, and other rights described. . . . Subject to valid existing rights . . . the Secretary shall transfer to the administrative jurisdiction of the Secretary of the Interior all right, title, and interest of the United States in and to the Federal land. 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 Federal land . . . Any commercial forestry activity carried out on the Federal land shall be managed in accordance with applicable Federal law.[254]

As discussed during the Committee hearing, the legislation requires that easements, rights-of-way, and other rights will remain in force.[255] Like the Western Oregon Tribal Fairness Act, this legislation requires that general federal laws on forestry activities and laws on the export of unprocessed logs will continue to apply to the land.[256]

The transfer legislation does not end the close working relationship between the LLBO and USFS. In June 2021, the LLBO and the Chippewa National Forest announced a Plan of Survey.[257] By jointly surveying the land, the Tribe and the agency will work together to implement the transfer.[258] The MOU gives voice to the

250. *See generally* Leech Lake Band of Ojibwe Reservation Restoration Act, Pub. L. No. 116-255, 134 Stat. 1139 (2020).

251. *Id.* § 2(b)(1)(A) at 1140.

252. S. REP. NO. 115-396, at 1 (2018).

253. § 1, 134 Stat. at 1139.

254. *Id.* § 2(a)–(c) at 1139–40.

255. *See Leech Lake Band of Ojibwe Reservation Restoration Act Hearing*, *supra* note 246, at 7; § 2(a)(5)(A), 134 Stat. at 1140.

256. § 2(e)(2)(A), 134 Stat. at 1141; Western Oregon Tribal Fairness Act, Pub. L. No. 115-103, tit. I § 104(b)(1), 131 Stat. 2253, 2254 (2018).

257. *Chippewa National Forest: Tribal Relations*, U.S. FOREST SERV., https://perma.cc/K69L-Y4QG (last visited Apr. 10, 2023).

258. *Id.*

Band's desired management objectives, such as ecologically functioning old-growth stands, maintaining cultural integrity, and reducing impacts on culturally significant natural resources.[259] The MOU will ensure that the LLBO's influence may continue to reach parts of the National Forest that were not transferred to trust by the legislation.

D. National Bison Range to the Confederated Salish and Kootenai Tribes

1. Historical Context

Under the Hellgate Treaty of 1855, the Salish, Pend d'Oreille, and Kootenai Tribes ceded most of their traditional lands in what is now western Montana.[260] The Confederated Salish and Kootenai Tribes (CSKT) reserved land now known as the Flathead Reservation. [261] In the decades following the treaty, North America's bison population was driven to near extinction.[262] Bison were a critical source of subsistence for the Tribes, and also culturally and spiritually significant.[263] To be proactive during the decline of bison, the CSKT tribal members brought bison across the Continental Divide and into the Flathead Reservation to establish a reservation-based bison herd.[264] Eventually, tribal members Michel Pablo and Charles Allard acquired and began to grow the herd.[265] However, the history of allotment and the opening of the Flathead reservation to non-Indians resulted in the forced displacement of the remaining reservation-based bison herd. The bison were sold to the Canadian government after the United States passed up an offer to purchase the herd.[266]

Simultaneously, bison conservation became a national concern.[267] In response, Congress appropriated over 15,000 acres from the middle of the Flathead Reservation to establish the National Bison Range in 1908.[268] The National Bison Range would eventually become a part of the National Wildlife Refuge System, which is administered by the Fish and Wildlife Service.[269] The Tribes did not support the creation of the Bison Range. [270] Nonetheless, the land for the Range was taken from properties held in trust for the CSKT under the Hellgate Treaty and placed into federal ownership as federal public land for bison conservation.[271] The American Bison Society, an organization founded in part by Theodore Roosevelt that

259. MEMO OF UNDERSTANDING, *supra* note 226, at 2.

260. Brian Upton, *Returning to a Tribal Self-Governance Partnership at the National Bison Range Complex: Historical, Legal, and Global Perspectives*, 35 PUB. LAND & RES. L. REV. 52, 56 (2014).

261. *Id.*

262. *Id.*

263. *Id.* at 67.

264. *Id.* at 69.

265. *Id.* at 71.

266. *Id.* at 74.

267. *Id.* at 72.

268. Pub. L. No. 192, § 60, 35 Stat. 251, 267–68 (1908) (previously codified at 16 U.S.C. § 671 but repealed by Pub. L. No. 116-260, div. DD § 12(g), 134 Stat. 1182, 3032 (2020)).

269. *See* Upton, *supra* note 261, at 62.

270. *Id.* at 75.

271. *Id.*

advocated for the conservation of bison and the creation of the National Bison Range, was charged with populating the Range with bison.[272] Most of the bison acquired by the American Bison Society to populate the Range originated from the Pablo-Allard bison herd—the very bison herd that had been driven out of the reservation and passed up for purchase by the United States.[273]

In the 1960s, the CSKT began litigation against the United States for unlawfully taking reservation lands, including the land appropriated for the National Bison Range.[274] The United States Supreme Court held that the lands for the National Bison Range were taken in violation of the Fifth Amendment of the Constitution.[275] By exercising eminent domain, authorizing the disposition of land to homesteaders, and using the proceeds to benefit non-Indians, the actions of the United States were "inconsistent with a good faith effort to give the Indians the full money value of their land" and therefore inconsistent with the functions of a trustee.[276] The Court settled the outstanding compensation issues from the seizure of the land, but this did not resolve the CSKT's ongoing interests in the National Bison Range land.[277]

The CSKT began attempts to work with the USFWS to "co-manage" the National Bison Range as soon as there was a legal basis to do so.[278] In 1994, Congress passed the Tribal Self-Governance Act (TSGA) which authorized the Secretary to enter into annual funding agreements for tribal operation and management of programs, services, functions, and activities.[279] Indian Tribes may assume these responsibilities through contracting with the federal government. These contracts, known as "638 contracts," have opened doors for tribes to take on traditionally federal functions, including the management of public lands.[280]

The CSKT submitted an official request to negotiate an annual funding agreement (AFA) for the operation and management of the National Bison Range in 2003.[281] The USFWS and CSKT, assisted by DOI officials, began negotiations over the AFA.[282] The AFA, which called for the CSKT to perform specific management activities under the authority of the USFWS refuge manager, became effective in 2005.[283]

In a 2006 report on the CSKT's implementation of the AFA, USFWS's National Bison Range project leader claimed that many of the management activities were unsuccessful, in need of improvement, performed by unqualified personnel, or

272. *Id.* at 72.

273. *Id.* at 77.

274. *Id.* at 80.

275. Confederated Salish and Kootenai Tribes of the Flathead Rsrv., Montana v. United States, 437 F.2d 458, 459 (Ct. Cl. 1971).

276. *Id. at 470.*

277. Upton, *supra* note 261, at 81.

278. *Id.* at 63.

279. *Id.* at 81, 90.

280. Mills & Nie, *supra* note 27, at 23.

281. *See* Reed v. Salazar, 744 F. Supp. 2d 98, 105 (D.D.C. 2010).

282. *See id.*

283. *See id.*

did not occur at all.[284] Still, the CSKT continued operations.[285] Later in 2006, the project leader issued a memorandum complaining about additional high-priority management failures.[286] USFWS employees also claimed that a hostile work environment existed at the National Bison Range since the 2005 AFA became effective. In late 2006, the Regional Director requested the termination of the CSKT's operations under the 2005 AFA.[287]

The CSKT quickly appealed the decision to terminate the AFA.[288] The Tribe claimed insufficient notice of the termination and insufficient notice of alleged management deficiencies.[289] The Tribe also issued a detailed response to USFWS's reports of poor performance, and some individuals described hostile behavior by USFWS staff.[290]

Deputy Secretary of the Interior, Lynn Scarlett, expressed dissatisfaction with the termination of the AFA and required DOI officials to work towards a new AFA with the CSKT.[291] Negotiations were arduous, but the parties agreed on a new AFA in June 2008.[292] Public Employees for Environmental Responsibility ("PEER") challenged the 2008 AFA.[293] The agreement was eventually vacated due to NEPA violations.[294] Negotiations for a third AFA never materialized.[295]

In 2015, USFWS began discussions with the CSKT to transfer the National Bison Range to the Tribe.[296] In 2016, USFWS began working to write and sponsor legislation to transfer the National Bison Range out of the National Wildlife Refuge System and into tribal trust for the CSKT.[297] PEER challenged this decision, claiming that a full EIS is necessary for USFWS to prepare and recommend such legislation.[298] PEER and USFWS settled in 2018.[299] USFWS agreed to prepare a Comprehensive Conservation Plan (CCP) and an associated Environmental Impact Statement (EIS) pursuant to NEPA by 2023.[300] The CCP and EIS were completed in 2019.[301]

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284. *Id.* at 105–06.

285. *See id.* at 106.

286. *See id.*

287. *See id.*

288. *See id.* at 107.

289. *See id.*

290. *See id.*

291. *See id.*

292. *See id.*

293. *See id.* at 100.

294. *See id.* at 120.

295. *See* Complaint for Declaratory and Injunctive Relief at 16, Reneau v. U.S. Fish & Wildlife Serv., No. 16-cv-966 (filed May 23, 2016) (D.D.C. 2016).

296. *See id.*

297. *See id.*

298. *See id.* at 10.

299. Settlement Agreement at 2, Reneau v. U.S. Fish & Wildlife Serv., No. 1:16-cv-00966 (filed Jan. 26, 2018) (D.D.C. 2018) (exh. 1 to Joint Motion to Dismiss).

300. *Id.* at 3.

301. *See* National Bison Range, MT; Availability of the Final Record of Decision for the Final Comprehensive Conservation Plan and Final Environmental Impact Statement, 84 Fed. Reg. 69,388 (Dec. 18, 2019).

Through the Bison Range Working Group website, the CSKT received 153 comments from 145 individuals on the Tribes' draft "National Bison Range Transfer and Restoration Act of 2016."[302] As found in other cases described herein, some people expressed concern that the Act would set a precedent for the transfer of other lands.[303] Others worried about public access and increased entry fees.[304] Several comments were overtly racist and attacked the CSKT's ability to manage the resource.[305]

The Bison Range Working Group responded to these questions and concerns by referencing provisions within the draft legislation.[306] For example, the CSKT directed those worried about precedent to a section of the draft legislation that expressly stated that the provisions of the Act "are not intended, and shall not be interpreted, as precedent for any other situation regarding federal properties or facilities."[307] Concerns about access were met with reminders that the CSKT have always agreed that "public access must be required."[308] In their responses to comments, the Bison Range Working Group made it clear that, according to their proposed draft legislation, the transfer would not dramatically impact federal lands writ large or the American public's enjoyment of the Bison Range.[309]

2. The Statute

In late 2020, Congress passed legislation to restore the National Bison Range to federal trust ownership for the Confederated Salish and Kootenai Tribes (CSKT).[310] In a massive appropriations law, Congress repealed the statute that created the National Bison Range and began a two-year period for the transition of management from the USFWS to CSKT.[311] Division DD of the Act prescribes the following land administration requirements:

> The land restored by paragraph (1) shall be (A) a part of the Reservation; (B) administered under the laws (including regulations) applicable to Indian trust land; and (C) managed by the Tribes, in accordance with paragraph (3), solely for the care and maintenance of bison, wildlife, and other natural resources, including designation or naming of the restored land . . .[312]

In managing the land restored by paragraph (1), the Tribes shall (A) provide public access and educational opportunities; and (B) at all times, have a publicly

302. RESPONSES OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES TO PUBLIC COMMENTS ON THE TRIBES' DRAFT "NATIONAL BISON RANGE TRANSFER AND RESTORATION ACT OF 2016" 1 (2016).

303. *Id.*

304. *Id.* at 2.

305. *Id.* at 6.

306. *See generally id.*

307. *Id.* at 1.

308. *Id.* at 2.

309. *See generally id.*

310. *See generally* Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. DD, § 12, 134 Stat. 1182, 3029 (2020).

311. *Id.* § 12(f)–(g) at 3032.

312. *Id.*

available management plan for the land, bison, and natural resources, which shall include actions to address management and control of invasive weeds. . . .[313]

The transfer legislation specifies that the Bison Range must be managed "solely for the care and maintenance of bison, wildlife, and other natural resources. . . ."[314] Other than educational opportunities, other uses are not permitted.[315] The National Wildlife Refuge System, which the Bison Range was a unit of before the transfer, allows for "compatible wildlife-dependent recreational uses."[316] A compatibility determination within a planning document is necessary, but these uses are not automatically precluded.[317] Under the prescriptions of the transfer legislation, it is unlikely that any other recreational uses will be permitted.

The CSKT also "shall provide public access and educational opportunities" at the Bison Range.[318] The vague language of this mandate suggests that the CSKT has some discretion over how they administer educational opportunities and allow for public access. When USFWS managed the bison range, public visitation was permitted during daylight hours and informative displays were available at the visitor center.[319] Since the transfer, the CSKT has provided similar accommodations.

The transfer legislation requires the CSKT to have a "publicly available management plan for the land, bison, and natural resources. . . ."[320] Prior to the transfer, the Bison Range was a unit of the National Wildlife Refuge System.[321] The National Wildlife Refuge System Improvement Act established a statutory requirement for all units of the System to have a Comprehensive Conservation Plan by 2012.[322] However, USFWS failed to complete the mandatory duty to prepare a CCP, leaving the National Bison Range to operate without a management plan until agreeing to do so as a result of litigation.[323] USFWS published the National Bison Range's first CCP in 2019.[324]

At the beginning of 2022, the CSKT assumed full management of the Bison Range.[325] The CSKT has not yet released their own management plan for the Bison

313. *Id.* § 12(c)(2)–(3) at 3031.

314. *Id.* § 12(c)(2)(C) at 3031.

315. *Id.* § 12(c)(2)(C)–(3)(A) at 3031.

316. National Wildlife Refuge System, 16 U.S.C. § 668dd (2022).

317. *Id.*

318. div. DD § 12(c)(3)(A), 134 Stat. at 3031.

319. BISON RANGE CONSERVATION PLAN, *supra* note 85, at 35–36.

320. div. DD § 12(c)(3)(B), 134 Stat. at 3031.

321. BISON RANGE CONSERVATION PLAN, *supra* note 85, at ii.

322. National Wildlife Refuge System, 16 U.S.C. § 668dd(e)(1)(a)(i) (2018) ("Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall – (i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a "planning unit") in the System. . . . ").

323. Settlement Agreement at 2, Reneau v. U.S. Fish and Wildlife Serv., No. 1:16-cv-00966 (filed Jan. 26, 2018) (D.D.C. 2018) (exh. 1 to Joint Motion to Dismiss).

324. National Bison Range, MT; Availability of the Final Record of Decision for the Final Comprehensive Conservation Plan and Final Environmental Impact Statement, 84 Fed. Reg. 69,388 (Dec. 18, 2019).

325. Micah Drew, *Tribes Assume Full Management of Bison Range*, FLATHEAD BEACON (Mar. 28, 2022), https://perma.cc/WP63-YMK5.

Range.[326] The Tribe adopted USFWS's 2019 CCP to guide the transition.[327] The federal government could still have the responsibility of approving the CSKT's planning documents post-transition due to the Bison Range's status as a tribal trust land.[328] This federal approval could be considered a major federal action and would therefore trigger the National Environmental Policy Act (NEPA), which would result in even more federal review and oversight.

CONCLUSION

As these examples show, the transfer of public lands for the benefit of Native Nations can be a meaningful step toward reckoning with and reconciling the darker history of our nation's public lands. Each of the examples also demonstrates, however, that these modern-day efforts to address that history have been complicated by the intervening decades of federal ownership of those lands, which has resulted in the establishment of a complex web of interests and expectations that come to bear on the politics of transfer legislation. For example, most of the laws transferring federal public lands to tribal trust status come with provisions regarding how lands must be managed in the future. Further, the transfer of these lands into trust status for the benefit of a tribe invokes the more general laws and regulations pertaining to the management of Indian trust lands and assets. There are, in other words, strings most often attached.

While some people may encourage this approach, others may view it as perpetuating a flawed trust management paradigm and undermining or limiting the inherent sovereignty of tribal nations. Still, others may take a more middle ground, viewing the approach as a reasonable compromise in a complicated world, and that while the trust relationship is problematic, it is also an important principle of federal Indian law and one that can be used to promote tribal sovereignty and self-determination. Indeed, the tribal governments who advocated for the passage of these laws and effectuated the transfer of these lands would likely view their actions as a meaningful exercise of their sovereign powers and representative of the federal government's sacred trust obligations. Because each of these transfers has focused only on specific parcels and individual situations, the consideration of these positions on a more general (and national) scale has yet to occur.

The history of acquisition, disposal, and retention of public lands helps explain the astonishing complexity of federal land ownership and property boundaries and the challenge of a broader, more universal approach to land transfers. Both within and adjacent to federal public lands are complicated mosaics of federal, state, private, and tribal properties. Interlaced throughout these properties are all the other attendant and encumbered rights and interests associated with each parcel; rights-of-way, grazing leases, water and mineral rights, and many other rights, claims, and interests, are scattered across the federal public land system. Importantly, all of those rights have arisen since the acquisition of the estate by the United

326. *About Bison Range Restoration*, BISON RANGE RESTORATION (2019), https://perma.cc/YC5M-QG8N.

327. RESOLUTION OF THE GOVERNING BODY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONTANA NO. 21-002 2 (2020).

328. *See supra* Part I(A).

States—the treaty-reserved rights exercised by many tribes on public lands predate that purchase and further complicate the picture. Just one example of this complexity is provided in Minnesota, where 90 percent of the Leech Lake Indian Reservation is within the Chippewa National Forest and 44 percent of the Forest is within the Reservation.[329]

This complexity of land ownership and administration provides one basis for understanding why so many transfer statutes are narrowly and specifically tailored to focus on individual locations and the situations attendant there, including the history of those parcels. In fact, the most common theme found within these laws is the recognition of valid existing rights and interests. These include rights-of-way, public and private access rights, mining rights, mineral leases, water rights, concession contracts, grazing permits, and others. Thus, while the transfer of federal public lands from Congress to tribal nations is rooted in the history that dates to before the United States could lay claim to those lands, the subsequent management and acquisition of rights in those lands make modern-day transfers much more challenging. These transfers, therefore, often require a much further-reaching negotiation of different rights and interests tied to these lands.

In addition to the challenges posed by pre-existing rights, the more modern history of conservation and protection of public lands has established a general expectation that the federal government will act in accordance with those values in perpetuity. The transfer of public lands to tribes can complicate or be perceived as a threat to those expectations. Instead, however, the record of recent transfers shows much the opposite. As discussed above, eleven statutes include prescriptions related to the conservation and preservation of transferred lands, while five others include language pertaining to managing transferred lands for traditional purposes. Seven others include restrictions on various forms of commercial and economic development. What to make of these provisions depends on the perspective taken. From a self-determination standpoint, for example, they might be viewed as yet more colonial control and usurpation of tribal sovereignty in service of federal or non-tribal interests bent on protecting public lands. But some of these provisions, Blue Lake being the most prominent, came at the request of the tribes involved and reflect tribal values and concerns as much as those of the broader, non-Indian public. Moreover, the strategic value of maintaining these lands and their conservation value may also factor into the political calculus of those advocating for a transfer.

These conservation provisions could distinguish tribal transfers from other federal divestment of public lands. Historically, transfers and exchanges out of federal ownership have been viewed skeptically by public land advocates because of concerns about what will or might happen on the lands being transferred. This is the predominant concern about federal lands being transferred to state ownership or control for example. Some of the statutes identified here, on the other hand, provide more conservation values and protection to lands and resources than were in place prior to transfer. Similarly, in addition to these added legislative protections, tribal management priorities may also require or provide for specific conservation mandates absent from the highly discretionary multiple-use dictates of the BLM and

329. *Leech Lake Band of Ojibwe Reservation Restoration Act Public Q&A*, U.S. FOREST SERV. (Aug. 2022), https://usfs-public.app.box.com/s/hig1u854x9xo0cvybstmd94vi0d35e7f.

USFS or the compatibility framework governing the management of the National Wildlife Refuge system. Though some statutes make vague references to stewardship, conservation, and environmental protection, others provide far more clarity and purpose, from managing Blue Lake as "forever wild" to managing the restored National Bison Range "solely for the care and maintenance of bison, wildlife, and other natural resources." Thus, the availability and use of tribal transfers to develop and implement a specific management framework for a particular parcel, a framework that can reflect and include tribal priorities and values for that landscape, present an otherwise unavailable option for modernizing land management decision-making that may allay concerns about the transfer of those lands from purely federal ownership.

Notwithstanding how transfer legislation has addressed the complexity of pre-existing rights or provided for the continued protection of transferred lands, fear over the possibility of a transfer setting a precedent has been, and remains, the most significant concern motivating opposition to the transfer of public lands to tribal trust status. The issue animated the congressional debate over the return of Blue Lake to Taos Pueblo in 1970 and remained a hurdle to the transfer of the National Bison Range in 2020.[330] Congressional and tribal leaders in support of the Blue Lake bill framed it as a unique situation and a singular approach that would not be replicated more broadly or pose a threat to the integrity of the federal public land system. While technically true—no other situation or land transfer involved the particular facts and interests at play and relevant to Blue Lake—the restoration of Blue Lake was not a singular event at all and has been followed by at least 43 other statutes that transfer public lands to trust status for the benefit of tribes. John Bodine, an anthropologist writing about the hearing and law transferring Blue Lake to Taos Pueblo writes presciently about the precedent issue in 1973:

> I could successfully argue that the Taos case was "unique" from the anthropological perspective of cultural relativity which holds that each culture differs from every other for respectable reasons. In so doing, it has to be recognized that the Taos case is unique and theoretically so is every other Indian claim. Each case will have to be decided on its own merits, hence, the stance of establishing precedent is moot. Succeeding with the Blue Lake controversy in no way denies the legitimacy of other Indian claims to land unjustly seized, and it can only be hoped that the special circumstances which set each of them apart can be uncovered and properly presented.[331]

Fifty years after the return of Blue Lake, precedent was once again a dominant theme in the restoration of the National Bison Range to the Confederated Salish and Kootenai Tribes. Like Blue Lake, "[T]he facts and history regarding the Federal Government, the Tribes, the bison, and land on the Reservation acquired for the National Bison Range are *exceptional circumstances that warrant action by*

330. *See infra* notes 331–333 and accompanying text.

331. Bodine, *supra* note 5, at 31.

Congress. . . ."[332] The Bison Range presents yet another most compelling case: the Tribes involved are national leaders in conservation and resource management, the herd of bison that traces all the way back to actions taken by tribal leaders in the 1870s to protect and preserve them, and the National Wildlife Refuge was ripped from the heart of the Reservation on land that was unlawfully taken by the U.S. Government in violation of the U.S. Constitution's Fifth Amendment.

These "exceptional circumstances" notwithstanding, Congress once again cast the restoration of the Bison Range as singular. The Act's "No Precedent" Clause makes clear its provisions "are uniquely suited to address the distinct circumstances, facts, history, and relationships involved with the bison, land, and Tribes; and are not intended, and shall not be interpreted, to establish a precedent for any other situation regarding Federal land, property, or facilities."[333] Again, while technically accurate in that the "circumstances, facts, history, and relationships involved with the bison, land, and Tribes" were distinct, the broader outlines of the history of Blue Lake and the National Bison Range reverberate across all public lands and can be analogized to many other stories of historical dispossession yet to be considered.[334] Given the acreage, conditions of transfer, specific "No precedent" language, and the limited number of such transfers in the last 50 years, concerns over precedent appear somewhat overwrought. Despite these transfers, the federal public land system remains intact and securely within the United States' ownership. Still, as the #Landback movement gains more attention and followers, debate over the meaning, scope, and nature of Indigenous claims to public lands is likely to once again rekindle opposition based on concerns over the precedent that may be set by a particular transfer. Hopefully, the examples discussed here will help support a more productive discussion of these concerns.

Overall, in light of these conditions and the political opposition to the transfer of public lands, the transfer laws enacted over the last half-century can generally be viewed as modest legislative remedies, strategically crafted in specific, fact-dependent scenarios to focus on the appropriation of tribal lands and the destruction wrought by the historical dispossession of Indigenous peoples. They have been important and, in the cases of Blue Lake and the National Bison Range, for example, momentous, historic enactments that have reunited tribes with long-severed homelands or sacred sites. In that regard, each of these transfers is a measure of much-needed reconciliation and a powerful reinvigoration of tribal sovereignty and culture.

When viewed on the whole, however, these transfers pale in comparison to the devastation visited upon Indigenous peoples and their tribal land base. Instead, the last half-century of congressionally authorized transfers represents a series of ad-hoc, conservative, and cautious corrective actions taken on a case-by-case basis, successful only where the political winds aligned to secure congressional blessing. The entire amount of acreage transferred is relatively small in contrast to the amount of public land that changes hands every year through the land acquisition, disposal,

332. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. DD § 12(a)(1)(O), 134 Stat. 1182, 3030 (2020) (emphasis added).

333. *Id.* § 12(k)(1)–(2) at 3032.

334. *Id.*

and exchange authorities enjoyed by public land agencies.[335] From that perspective, the last 50 years of transfers have been only a series of small and unsatisfactory steps toward a deeper, more meaningful, national recognition of tribal connections to federal public lands. Hopefully, this article will help inform consideration of how such recognition might evolve over the next 50 years.

APPENDIX A

Conveyance of Blue Lake to the Pueblo de Taos, Pub. L. No. 91-550, 84 Stat. 1437 (1970).	
Purpose	Declares land within Carson National Forest to be held in trust for the Pueblo de Taos.
Tribe Involved	Pueblo de Taos
Agency Involved	Forest Service
State	New Mexico
Acreage	48,000 acres
Land Administration "The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe." "Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3,1964 (78 Stat, 890)." "With the consent of the tribe, but not otherwise, nonmembers of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness." "The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands. . . ."	

335. As discussed in Part I, there is some fluidity in the federal lands system with acreage and boundaries being annually adjusted, and transfers to tribal trust status are but a very small part of these changes. *See supra* part I.

"Lessees or permittees of lands described . . . which are not included in the lands described in the Act of May 31, 1933, shall be given the opportunity to renew their leases or permits under rules and regulations of the Secretary of the Interior to the same extent and in the same manner that such leases or permits could have been renewed if this Act had not been enacted; but the Pueblo de Taos may obtain the relinquishment of any or all of such leases or permits from the lessees or permittees under such terms and conditions as may be mutually agreeable."

"Nothing in this section shall impair any vested water right."

Grand Canyon National Park Enlargement Act, Pub. L. No. 93-620, 88 Stat. 2089 (1975).	
Purpose	Declares land within Grand Canyon National Park to be held in trust for the Havasupai Tribe.
Tribe Involved	Havasupai Tribe
Agency Involved	National Park Service
State	Arizona
Acreage	185,000 acres

Land Administration

"[T]he lands may be used for traditional purposes, including religious purposes and the gathering of, or hunting for, wild or native foods, materials for paints and medicines. . . ."

" [T]he lands shall be available for use by the Havasupai Tribe for agricultural and grazing purposes, subject to the ability of such lands to sustain such use as determined by the Secretary. . . ."

"[A]ny areas historically used as burial grounds may continue to be so used. . . ."

"[A] study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land by the tribe which shall include the selection of areas which may be used for residential, educational, and other community purposes for members of the tribe and which shall not be inconsistent with, or detract from, park uses and values. . . ."

"[N]o commercial timber production, no commercial mining or mineral production, and no commercial or industrial development shall be permitted on such lands . . . the Secretary may authorize the establishment of such tribal small business enterprises as he deems advisable to meet the needs of the tribe which are in accordance with the plan. . . ."

"[B]efore being implemented by the Secretary, such plan shall be made available through his offices for public review and comment, shall be subject to public hearings, and shall be transmitted, together with a complete transcript of the hearings, at least 90 days prior to implementation, to the Committees on Interior and Insular Affairs of the United States Congress; and *Provided further*, that any subsequent revisions of this plan shall be subject to the same procedures as set forth in this paragraph. . . .

"[N]onmembers of the tribe shall be permitted to have access across such lands at locations established by the Secretary in consultation with the Tribal Council in order to visit adjacent parklands, and with the consent of the tribe, may

be permitted (i) to enter and temporarily utilize lands within the reservation in accordance with the approved land use plan . . . or (ii) to purchase licenses from the tribe to hunt on reservation lands subject to limitations and regulations imposed by the Secretary of the Interior. . . ."

"[E]xcept for the uses permitted . . . the lands hereby transferred to the tribe shall remain forever wild. . . ."

"The Secretary shall be responsible for the establishment and maintenance of conservation measures for these lands. . . ."

"The Secretary shall permit any person presently exercising grazing privileges pursuant to Federal permit or lease . . . in the Havasupai Reservation by this section, to continue in the exercise thereof, but no permit or renewal shall be extended beyond the period ending ten years from the date of enactment of this Act, at which time all rights of use and occupancy of the lands will be transferred to the tribe subject to the same terms and conditions as the other lands included in the reservation in paragraph. . . ."

"Nothing in this Act shall be construed to prohibit access by any members of the tribe to any sacred or religious places or burial grounds, native foods, paints, materials, and medicines located on public lands not otherwise covered in this Act."

Conveyance of Excluded Olympic National Park Lands to Quileute Indian Tribe, Pub. L. No. 94-578, § 320, 90 Stat. 2732, 2739 (1976).	
Purpose	Any property excluded from Olympic National Park by this Act which is within the boundaries of an Indian reservation is authorized to be held in trust for that tribe.
Tribe Involved	Quileute Indian Tribe
Agency Involved	National Park Service
State	Washington
Acreage	Acreage is not specified.
Land Administration "[A]ny concessioner providing public services shall be permitted to continue to provide such services in such manner and for such period as set forth in his concession contract. . . ." "The acquisition of lands by the United States in trust for an Indian tribe pursuant to this title shall not confer any hunting or fishing rights upon such tribe which were not vested in such tribe prior to the acquisition of such lands. . . ."	

Conveyance of Bureau of Land Management Lands to Pueblo of Zia, Pub. L. No. 95-499, 92 Stat. 1679 (1978).	
Purpose	Declares certain public domain lands within New Mexico to be held in trust for the Pueblo of Zia.
Tribe Involved	Pueblo of Zia
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	4,848.13 acres
Land Administration	

"Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands. . . ."

"All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases . . . shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provision of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected. . . ."

"The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns. . . ."

"[T]he Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys, or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites. . . ."

Navajo and Hopi Indian Relocation Amendments Act, Pub. L. No. 96-305, § 4, 94 Stat. 929, 930 (1980).	
Purpose	Amends Section 11 of the Act of December 22, 1974, to authorize and direct the Secretary of the Interior to transfer certain Bureau of Land Management lands within Arizona and New Mexico to the Navajo Tribe.
Tribe Involved	Navajo Tribe
Agency Involved	Bureau of Land Management
States	Arizona and New Mexico
Acreage	The Act authorizes a transfer not to exceed 250,000 acres. Lands transferred within New Mexico shall not exceed 35,000 acres. No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer.
Land Administration "[S]uch lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of the date of this subsection who are awaiting relocation under this Act."	

Conveyance of Forest Service Land to Tule River Tribe, Pub. L. No. 96-338, 94 Stat. 1067 (1980).	
Purpose	Declares lands which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 to be held in trust for the Tule River Indian Tribe.
Tribe Involved	Tule River Tribe
Agency Involved	Forest Service

State	California
Acreage	Lands are described in the legislation, but acreage is not specified.
Land Administration "Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have. . . ." "The transfer under the first section of this Act shall be subject to such right-of-way . . . as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands. . . ."	

Establishing a Reservation for the Confederated Tribes of Siletz Indians, Pub. L. No. 96-340, 94 Stat. 1072 (1980).	
Purpose	To establish a reservation for the Confederated Tribes of Siletz Indians.
Tribe Involved	Confederated Tribes of Siletz Indians
Agency Involved	Department of the Interior, but agency is not specified.
State	Oregon
Acreage	3,630
Land Administration "Subject to all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of the enactment of this Act. . . ." "Such lands shall be subject to the right of the Secretary of the Interior to establish, without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or to serve adjacent or nearby Federal lands." "[S]hall not grant or restore to the tribe or any member of the tribe any new or additional hunting, fishing, or trapping right of any nature. . . ."	

Conveyance of Public Domain Lands to Mdewakanton Sioux Communities, Pub. L. No. 96-557, 94 Stat. 3262 (1980).	
Purpose	Declares certain public domain land to be held in trust for certain communities of the Mdewakanton Sioux.
Tribe Involved	Mdewakanton Sioux
Agency Involved	Department of the Interior, but agency is not specified.
State	Minnesota
Acreage	▪ Shakopee Mdewakanton Sioux Community: 258.25 acres ▪ Lower Sioux Indian Community: 572.5 acres ▪ Prairie Island Indian Community: 120 acres Total: 950.75 acres
Land Administration "Nothing in this Act shall (1) alter, or require the alteration, of any rights under any contract, lease, or assignment entered into or issued prior to enactment of this Act, or (2) restrict the authorities of the Secretary of the Interior under or with respect to any such contract, lease, or assignment."	

Navajo Tribe Land Exchange, Pub. L. No. 97-287, 96 Stat. 1225 (1982).	
Purpose	Authorizes an exchange between the Bureau of Land Management and the Navajo Tribe.
Tribe Involved	Navajo Tribe
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	Lands to be transferred are described in the legislation, but acreage is not specified.

Land Administration

"Lands received by the Navajo Tribe . . . shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe. . . ."

"Nothing in this Act shall affect (1) the mineral interests of any person, or (2) any easement or other rights of any person (other than the United States or the Navajo Tribe) . . . The development of such interests and the exercise of such rights may only be controlled by the Navajo Tribe or the Secretary of the Interior to the same extent that such development or exercise could have been controlled by the Secretary of the Interior prior to the enactment of this Act."

Conveyance of Public Domain Lands to Bands of the Paiute Indian Tribe, Pub. L. No. 98-219, 98 Stat. 11 (1984).	
Purpose	Declares certain public domain lands to be held in trust for the various bands of the Paiute Indian Tribe of Utah.
Tribe Involved	Paiute Indian Tribe of Utah
Agencies Involved	Agency not specified.
State	Utah
Acreage	▪ Kanosh Band: 1,062 acres ▪ Koosharem Band: 1,235 acres ▪ Cedar City Band: 2,044 acres ▪ Indian Peaks Band: 424 acres Total: 4,765 acres

Land Administration

"Nothing in this section shall deprive any person of any existing legal right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the lands described. . . ."

"[T]he Secretary shall acquire, to the extent available, easements to and water rights for the lands described . . . as necessary for their use."

"The Secretary shall consult with the town council of Joseph, Utah, and other appropriate local governmental entities prior to permitting the introduction of any point source of contamination pursuant to any proposed development on parcel numbered 4. . . ."

"Upon the effective date of this Act, all valid leases, permits, rights-of-way, or other land use rights or authorizations, except mining claims, existing on the date of enactment of this Act in the lands described . . . shall cease to be the

responsibility of, or enure to the benefit of, the United States, and shall become the responsibility of the Paiute Indian Tribe which shall succeed to the interests of the United States and shall continue to maintain them under the same terms and conditions as they were maintained by the United States."

"All improvements on the lands described . . . in existence on the effective date of the Act, under the authority of the land use rights or authorizations described . . . shall remain in the same status as to ownership and right of use as existed prior to the date of enactment of this Act."

"Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act on the lands described . . . Such mining claims shall carry the right to occupy and use so much of the surface of the land within their boundaries as is required for all purposes reasonably necessary to mine and remove the minerals, including the removal of timber for mining purposes. Such mining claims shall terminate when they are determined invalid . . . or are abandoned."

"Nothing in this Act shall prevent the Paiute Indian Tribe from negotiating the accommodation of land use rights or authorizations described in this section through any method acceptable to the parties."

Conveyance of Lands to the Zuni Indian Tribe for Religious Purposes, Pub. L. No. 98-408, 98 Stat. 1533 (1984).	
Purpose	Declares certain public domain land to be held in trust for the Zuni Indian Tribe for religious purposes. Authorizes and directs the Secretary of the Interior to acquire lands owned by the state of Arizona via an exchange for Bureau of Land Management lands. Such land will also be taken into trust for the Tribe.
Tribe Involved	Zuni Indian Tribe
Agency Involved	Agency is not specified.
State	Arizona
Acreage	The land to be transferred is described, but acreage is not specified in the legislation.
Land Administration "[S]ubject to any existing leasehold interests. . . ."	

San Juan Basin Wilderness Protection Act, Pub. L. No. 98-603, § 105, 98 Stat. 3155, 3157 (1984).	
Purpose	Requires the Navajo Tribe to select lands in New Mexico administered by the Bureau of Land Management of equal acreage in lieu of lands previously selected by the Tribe within the boundaries of the "Fossil Forest," which is to be withdrawn from mineral leasing and managed for its unique paleontological resource value. Requires the Secretary to exchange lands upon the request of an Indian whose lands are located within the De-na-zin Wilderness area.

Tribe Involved	Navajo Tribe
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	Acreage is not specified.

Land Administration

"Title to such in lieu selections shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation, and shall be subject only to valid existing rights as of December 1, 1983."

"[A]ll rights, title and interests of the United States in the lands described . . . including such interests the United States as lessor has in such lands under the Mineral Leasing Act of 1920, as amended, will, subject to existing leasehold interests, be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation."

"The leaseholders rights and interests in such coal leases will in no way be diminished by the transfer of the rights, title and interests of the United States in such lands to the Navajo Tribe."

Bureau of Land Management Lands to Reno Sparks Indian Colony, Pub. L. No. 99-389, 100 Stat. 828 (1986).	
Purpose	Declares certain public domain lands in Nevada to be held in trust for the Reno Sparks Indian Colony.
Tribe Involved	Reno Sparks Indian Colony
Agency Involved	Bureau of Land Management
State	Nevada
Acreage	1,949.39 acres

Land Administration

"[N]othing in this Act shall deprive any person of any right-of-way, mining claim, water right, or other right or interest which such person may have in the land described in the first section on the date preceding the date of enactment of this Act."

"[W]ithin thirty days after the date of enactment of this Act, the Secretary of the Interior shall cancel all grazing permits and leases on the following described land . . . comprising 1,920 acres more or less. . . ."

Hoopa-Yurok Settlement Act, Pub. L. No. 100-580, § 2, 102 Stat. 2924, 2925 (1988).	
Purpose	Declares all national forest system lands within the Yurok Reservation and a portion of the Yurok Experimental Forest to be held in trust for the Yurok Tribe.
Tribe Involved	Yurok Tribe
Agency Involved	Forest Service
State	California

Acreage	Land is described in the legislation, but acreage is not specified.
Land Administration "Subject to all valid existing rights. . . ."	

Expansion of Quinault Indian Reservation, Pub. L. No. 100-638, § 1, 102 Stat. 3327, 3327 (1988).	
Purpose	Declares certain public domain lands to be held in trust for the Quinault Indian Nation.
Tribe Involved	Quinault Indian Nation
Agency Involved	Forest Service
State	Washington
Acreage	11,905 acres

Land Administration

"The Secretary of the Interior shall not approve any sale of unprocessed timber . . . which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which the Secretary determines are surplus to domestic lumber and plywood manufacturing needs."

"[T]he Secretary of the Interior shall (1) limit the sale of timber from the lands referred to in section 1 to a quantity equal to or less than a quantity which can be removed from such lands annually in perpetuity on a long term sustained-yield basis . . . (2) administer all timber and forest products sold from the lands referred to . . . in accordance with the conditions of the Policy Statement for the Grays Harbor sustained yield unit as defined and administered by the Secretary of Agriculture as long as such policy statement remains in effect."

"The Secretary of Agriculture shall reserve permanent easements for the purpose of continuing access, including public access, to National Forest Systems lands on Forest Service roads numbered 21, 2110, 2120, 2130, 2140, 2190, 2191, and all numbered extensions or segments thereof."

"The Secretary of the Interior shall allow such additional rights-of-way through lands referred to . . . as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation, considers necessary to provide access to and management of National Forest System lands, including public access."

"The Secretary of Agriculture shall allow such rights-of-way through National Forest System lands as the Secretary of the Interior, in consolation with the Secretary of Agriculture and the Quinault Indian Nation, considers necessary to provide access to lands referred to. . . ."

"Nothing in this Act is intended to affect or modify . . . any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to. . . ."

Development of the Utah Component of the Confederated Tribes of the Goshute Reservation, Pub. L. No. 100-708, §§ 1–10, 102 Stat. 4717, 4717–4724 (1988).	
Purpose	Corrects historical and geographical oversights by placing certain public domain lands in trust for the Confederated Tribes of the Goshute Reservation.
Tribe Involved	Confederated Tribes of the Goshute Reservation
Agency Involved	Agency not mentioned.
State	Utah
Acreage	2833.51 acres
Land Administration "Except as otherwise provided in this section, nothing in this Act shall be construed to deprive any person of any valid existing right or interest (including, but not limited to, a real property right or interest, water right or priority, right of ingress and egress, right-of-way, easement, license, grazing permit, oil and gas lease, mining claim, or other legal property or contract right or interest) which such person may have in the lands described in this Act on the date of enactment of this Act." "Upon the effective date of this Act, all valid rights-of-way, leases, permits, and other land use rights or authorizations, except mining claims, existing on the date of enactment of this Act in the lands described in this Act, including the right to receive compensation for use of the lands, shall cease to be the responsibility of, or inure to the benefit of, the United States, and shall become the responsibility of the Tribe and the Secretary as trustee."	

San Carlos Mineral Strip Act, Pub. L. No. 101-447, 104 Stat. 1047 (1990).	
Purpose	Declares certain Coronado National Forest Land to be held in trust for the San Carlos Apache Tribe.
Tribe Involved	San Carlos Apache Tribe
Agency Involved	Forest Service
State	Arizona
Acreage	Acreage is not specified.
Land Administration "Nothing in this Act shall affect or modify any valid entry or other valid existing rights under the mining laws of the United States."	

Northern Cheyenne Indian Reserved Water Rights Settlement Act, Pub. L. No. 102-374, § 10, 106 Stat. 1186, 1191 (1992).	
Purpose	Declares certain Bureau of Land Management land to be held in trust for the Northern Cheyenne Tribe.
Tribe Involved	Northern Cheyenne Tribe
Agency Involved	Bureau of Land Management
State	Montana
Acreage	Description of land is in the legislation, but acreage is not specified.
Land Administration	

"Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred." "This transfer shall not be construed as creating a Federal reserved water right."

Utah Schools and Lands Improvement Act, Pub. L. No. 103-93, § 3, 107 Stat. 995, 995 (1993).	
Purpose	Declares a small tract of public domain land within the state of Nevada to be held in trust for the Goshute Indian Tribe.
Tribe Involved	Goshute Indian Tribe
Agency Involved	Agency is not specified.
State	Nevada
Acreage	5 acres
Land Administration "No part of the lands referred to . . . shall be used for gaming or any related purpose."	

Omnibus Consolidated Appropriations Act, Coquille Tribal Forest, Pub. L. No. 104-208, div. B tit. 5, 110 Stat. 3009, 3009-537 (1996).	
Purpose	Amends the Coquille Restoration Act to declare 5,400 acres of Bureau of Land Management land to be held in trust for the Coquille Tribe as the Coquille Tribal Forest.
Tribe Involved	Coquille Tribe
Agency Involved	Bureau of Land Management
State	Oregon
Acreage	5,400 acres
Land Administration "During the two year interim period . . . the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest." "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." "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." "[A]ll 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." "[T]he Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into a binding Indian self-determination agreement (agreement) with	

the Coquille Indian Tribe. Such agreement may provide for the tribe to carry out all or a portion of the forest management for the Coquille Forest."

"Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon. . . ."

"The Secretary shall rescind the agreement upon a demonstration that the tribe and the State of Oregon are no longer engaged in a memorandum of agreement as required . . . The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection."

"The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or federal law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality. . . ."

"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: management, allocation and administration of fish and wildlife resources . . . ; allocation and administration of water rights, appropriation of water and use of water; regulation of boating activities . . . ; fills and removals from waters of the State . . . ; protection and management of the State's proprietary interests in the beds and banks of navigable waterways; regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits; regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances; regulation of the use of herbicides and pesticides; and enforcement of public health and safety standards. . . ."

"Nothing in this subsection shall be construed to grant tribal authority over private or State-owned lands . . . Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities . . . 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 . . . the State of Oregon shall have jurisdiction and authority to enforce its laws . . . on the Coquille Forest against the Coquille Indian Tribe . . . In the event of a conflict between Federal and State law under this subsection, Federal law shall control."

Additional Goshute Indian Reservation Lands, Pub. L. No. 104-211, 110 Stat. 3013 (1996).	
Purpose	Amends the Utah Schools and Lands Improvement Act of 1993 to add lands to the Goshute Indian Reservation by declaring certain Bureau of Land Management lands to be held in trust for the Goshute Indian Tribe.
Tribe Involved	Goshute Indian Tribe

Agency Involved	Agency is not specified in the statute, but House Report 104-562 specifies Bureau of Land Management.
State	Utah
Acreage	8,000 acres total of federal lands and state lands, but exact federal acreage is not specified in the statute. House Report 104-562 specifies that the conveyance is about 400 acres of federal land.
Land Administration "[T]he remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section."	

Hoopa Valley Reservation South Boundary Adjustment Act, Pub. L. No. 105-79, 111 Stat. 1527 (1997).	
Purpose	Declares land within the Six Rivers National Forest to be held in trust for the Hoopa Valley Tribe.
Tribe Involved	Hoopa Valley Tribe
Agency Involved	Forest Service
State	California
Acreage	2,641 acres
Land Administration "The transfer of lands to trust status under this section extinguishes the following claims by the Hoopa Valley Tribe: (1) All claims on land now administered as part of the Six Rivers National Forest based on the allegation of error in establishing the boundaries of the Hoopa Valley Reservation, as those boundaries were configured before the date of the enactment of this Act. (2) All claims of failure to pay just compensation for a taking under the fifth amendment to the United States Constitution, if such claims are based on activities, occurring before the date of the enactment of this Act, related to the lands transferred to trust status under this section."	

Santa Rosa and San Jacinto Mountains National Monument Act, Pub. L. No. 106-351, 114 Stat. 1362 (2000).	
Purpose	Authorizes the Secretary of the Interior to exchange lands that the Bureau of Land Management has acquired using the Land and Water Conservation Fund with Agua Caliente Band of Cahuilla Indians.
Tribe Involved	Agua Caliente Band of Cahuilla Indians
Agency Involved	Bureau of Land Management
State	California
Acreage	Acreage is not specified.
Land Administration "The exchanged lands acquired by the Secretary within the boundaries of the National Monument shall be managed for the purposes described . . . In order to preserve the nationally significant biological, cultural, recreational,	

geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein. . . ."

Timbisha Shoshone Homeland Act, Pub. L. No. 106-423, 114 Stat. 1875 (2000).	
Purpose	Declares certain public domain within and outside of Death Valley National Park land to be held in trust for the Timbisha Shoshone Tribe.
Tribe Involved	Timbisha Shoshone Tribe
Agency Involved	National Park Service, Bureau of Land Management
States	California and Nevada
Acreage	7,753.99 acres

Land Administration

"The priority date of the Federal water rights . . . shall be the date of enactment of this Act, and such Federal water rights shall be junior to Federal and State water rights existing on such date of enactment."

"Recognizing the mutual interests and responsibilities of the Tribe and the National Park Service in and for the conservation and protection of the resources in the area . . . development in the area shall be limited to (i) for purposes of community and residential development, (ii) for purposes of economic development, and (iii) the infrastructure necessary to support the level of development described in clauses (i) and (ii)."

"[T]he National Park Service and the Tribe are authorized to negotiate mutually agreed upon, visitor-related economic development in lieu of the development set forth in that subparagraph if such alternative development will have no greater environmental impact than the development set forth in that subparagraph."

"Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act on the land described . . . Any person with such an existing mining claim shall have all the rights incident to mining claims, including the rights of ingress and egress on the land described . . . Any person with such an existing mining claim shall have the right to occupy and use so much of the surface of the land as is required for all purposes reasonably necessary to mine and remove the minerals from the land, including the removal of timber for mining purposes. Such a mining claim shall terminate when the claim is determined to be invalid or is abandoned."

"Members of the Tribe shall have the right to enter and use the Park without payment of any fee for admission into the Park."

"In order to fulfill the purposes of this Act and to establish cooperative partnerships for purposes of this Act, the National Park Service, the Bureau of Land Management, and the Tribe shall enter into government-to-government consultations and shall develop protocols to review planned development in the Park."

"The National Park Service and the Tribe shall develop mutually agreed upon standards for size, impact, and design for use in planning, resource protection, and development of the Furnace Creek area and for the facilities at Wildrose. The standards shall be based on standards for recognized best practices for environmental sustainability and shall not be less restrictive than the environmental standards applied within the National Park System at any given time."

"The Secretary and the Tribe shall develop mutually agreed upon standards for a water monitoring system. . . ."

"In employing individuals to perform any construction, maintenance, interpretation, or other service in the Park, the Secretary shall, insofar as practicable, give first preference to qualified members of the Tribe."

"Gaming as defined and regulated by the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall be prohibited on trust lands within the Park."

Santo Domingo Pueblo Claims Settlement Act, Pub. L. No. 106-425, 114 Stat. 1890 (2000).	
Purpose	Ratifies a settlement agreement which declares certain Bureau of Land Management lands to be held in trust for the Pueblo.
Tribe Involved	Pueblo of Santo Domingo
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	4,577.10 acres
Land Administration "[S]ubject to valid existing rights and rights of public and private access. . . ." "Any lands acquired by the Pueblo . . . shall be subject to the provisions of section 17 of the Act of June 7, 1924 (43 Stat. 641; commonly referred to as the Pueblo Lands Act)."	

Omnibus Indian Advancement Act, California Land Transfer Act, Pub. L. No. 106-568, § 901, 114 Stat. 2868, 2921 (2000).	
Purpose	Declares certain public domain lands to be held in trust for various Tribes of California Indians.
Tribe Involved	Various Tribes of California Indians: Pit River Tribe, Fort Independence Community of Paiute Indians, Barona Group of Capitan Grande Band of Mission Indians, Cuyapaipe Band of Mission Indians, Manzanita Band of Mission Indians, Morongo Band of Mission Indians, Pala Band of Mission Indians, Fort Bidwell Community of Paiute Indians
Agency Involved	Agency not specified.
State	California
Acreage	▪ Pit River Tribe: 561.69 acres ▪ Fort Independence Community of Paiute Indians: 200.06 acres

	▪ Barona Group of Capitan Grande Band of Mission Indians: 5.03 acres ▪ Cuyapaipe Band of Mission Indians: 1,360 acres ▪ Manzanita Band of Mission Indians: 1,000.78 acres ▪ Morongo Band of Mission Indians: 40 acres ▪ Pala Band of Mission Indians: 59.20 acres ▪ Fort Bidwell Community of Paiute Indians: 299.04 acres Total: 3,525.80 acres
Land Administration "Real property taken into trust pursuant to this subsection shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act . . .)" "Grazing preferences on lands described . . . shall terminate 2 years after the date of the enactment of this Act."	

New Mexico Trust Lands, Pub. L. 108-66, 117 Stat. 876 (2003).	
Purpose	Declares certain Bureau of Land Management land to be held in trust for the Pueblo of Santa Clara and Pueblo of San Ildefonso.
Tribe Involved	Pueblo of Santa Clara, New Mexico; Pueblo of San Ildefonso, New Mexico
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	▪ Pueblo of Santa Clara, New Mexico: 2,484 acres ▪ Pueblo of San Ildefonso, New Mexico: 2,000 acres Total acreage: 4,484 acres
Land Administration "The following shall be subject to section 17 of the Act of June 7, 1924 (25 U.S.C. 331 note; commonly known as the ''Pueblo Lands Act'')." "Subject to criteria developed by the Pueblos in concert with the Secretary, the trust land may be used only for traditional and customary uses or stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust. Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments." Nothing in this Act affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that is in existence before the date of enactment of this Act." "Nothing in this Act constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or affects any water right of the Pueblos in existence before the date of enactment of this act."	

Washoe Indian Tribe Trust Land Conveyance, Pub. L. No. 108-67, 117 Stat. 880 (2003).	
Purpose	Directs the Secretary of Agriculture to convey certain lands to the Secretary of the Interior to be held in trust for the Washoe Tribe.
Tribe Involved	Washoe Tribe of Nevada
Agency Involved	Forest Service
State	Nevada
Acreage	24.3 acres

Land Administration

"Subject to valid existing rights. . . ."

"[S]ubject to reservation to the United States of a nonexclusive easement for public and administrative access over Forest Development Road #15N67 to National Forest System land, to be administered by the Secretary of Agriculture."

"The Secretary of Agriculture shall provide a reciprocal easement to the Tribe permitting vehicular access to the parcel over Forest Development Road #15N67 to (1) members of the Tribe for administrative and safety purposes; and (2) members of the Tribe who, due to age, infirmity, or disability, would have difficulty accessing the conveyed parcel on foot."

"In using the parcel conveyed . . . the Tribe and members of the Tribe (1) shall limit the use of the parcel to traditional and customary uses and stewardship conservation for the benefit of the Tribe; (2) shall not permit any permanent residential or recreational development on, or commercial use of, the parcel (including commercial development, tourist accommodations, gaming, sale of timber, or mineral extraction); and (3) shall comply with environmental requirements that are no less protective than environmental requirements that apply under the Regional Plan of the Tahoe Regional Planning Agency."

"If the Secretary of the Interior, after notice to the Tribe and an opportunity for a hearing, based on monitoring of use of the parcel by the Tribe, makes a finding that the Tribe has used or permitted the use of the parcel in violation of subsection (a) and the Tribe fails to take corrective or remedial action directed by the Secretary of the Interior (1) title to the parcel in the Secretary of the Interior, in trust for the Tribe, shall terminate; and title to the parcel shall revert to the Secretary of Agriculture."

Department of the Interior and Related Agencies Appropriations Act, Eastern Band of Cherokee Indians Land Exchange Act, Pub. L. No. 108-108, § 138, 117 Stat. 1241, 1271 (2003).	
Purpose	Facilitates a land exchange between the Eastern Band of Cherokee Indians and the National Park Service.
Tribe Involved	Eastern Band of Cherokee Indians
Agency Involved	National Park Service
State	North Carolina
Acreage	143 acres

Land Administration

"[T]he Director of the National Park Service and the Eastern Band of Cherokee Indians shall enter into government-to-government consultations and

shall develop protocols to review planned construction on the Ravensford tract. The Director of the National Park Service is authorized to enter into cooperative agreements with the Eastern Band for the purpose of providing training, management, protection, preservation, and interpretation of the natural and cultural resources on the Ravensford tract."

"[T]he National Park Service and the Eastern Band shall develop mutually agreed upon standards for size, impact, and design of construction consistent with the purposes of this section on the Ravensford tract."

"Gaming as defined and regulated by the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall be prohibited on the Ravensford tract."

Colorado River Indian Reservation Boundary Correction Act, Pub. L. No. 109-47, 119 Stat. 451 (2005).	
Purpose	Corrects the south boundary of the Colorado River Indian Reservation by declaring certain Bureau of Land Management lands to be held in trust for the Colorado River Indian Tribes.
Tribe Involved	Colorado River Indian Tribes
Agency Involved	Bureau of Land Management
State	Arizona
Acreage	15,375 acres

Land Administration

"The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source."

"Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes."

"The restored lands . . . shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands. . . ."

"Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if (1) the proposed right-of-way is necessary to the needs of the applicant; (2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and (3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities."

"Land taken into trust under this Act shall neither be considered to have been taken into trust for gaming nor be used for gaming. . . ."

Ojito Wilderness Act, Pub. L. No. 109-94, § 4, 119 Stat. 2106, 2108 (2005).	
Purpose	Declares certain Bureau of Land Management lands to be held in trust for the Pueblo of Zia.
Tribe Involved	Pueblo of Zia
Agency Involved	Bureau of Land Management
State	New Mexico
Acreage	Lands are described in the legislation, but acreage is not specified.

Land Administration

"Subject to valid existing rights. . . ."

"[L]ands identified on the map as the ''BLM Lands Authorized to be Acquired by the Pueblo of Zia'' are withdrawn from (1) all forms of entry, appropriation, and disposal under the public land laws; (2) location, entry, and patent under the mining laws; and (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws."

"[T]he Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed. . . ."

"[T]he declaration of trust and conveyance . . . shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary. . . ."

"[T]he land conveyed . . . shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity . . . the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed. . . ."

"Nothing in this section shall affect (A) any validly issued right-of-way or the renewal thereof; or (B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary."

"The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired . . . that is designated as the "Rights-of-Way corridor #1" in the Rio Puerco Resource Management Plan that is in effect on the date of the grant."

"Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way."

Public Domain Lands to Utu Utu Gwaitu Paiute Tribe, Pub. L. No. 109-421, 120 Stat. 2889 (2006).	
Purpose	Declares certain Bureau of Land Management lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe.
Tribe Involved	Utu Utu Gwaitu Paiute Tribe
Agency Involved	Agency is not specified.
State	California
Acreage	240 acres

Land Administration

"Subject to valid existing rights. . . ."

"Lands taken into trust . . . shall not be considered to have been taken into trust for, and shall not be eligible for, class II gaming or class III gaming. . . ."

Pechanga Band of Luiseno Mission Indians Transfer Act, Pub. L. No. 110-383, 122 Stat. 4090 (2007).	
Purpose	Declares certain Bureau of Land Management lands to be held in trust for the Pechanga Band of Luiseno Mission Indians.
Tribe Involved	Pechanga Band of Luiseno Mission Indians
Agency Involved	Bureau of Land Management
State	California
Acreage	1,178 acres

Land Administration

" [S]ubject to valid existing rights. . . ."

"The land transferred . . . shall be part of the Pechanga Indian Reservation and administered in accordance with . . . a memorandum of understanding entered into between the Pechanga Band of Luiseno Mission Indians the Bureau of Land Management, and the United States Fish and Wildlife Service on November 11, 2005, which shall remain in effect until the date on which the Western Riverside County Multiple Species Habitat Conservation Plan expires."

"Nothing in this Act shall (1) enlarge, impair, or otherwise affect any right or claim of the Pechanga Band of Luiseno Mission Indians to any land or interest in land that is in existence before the date of the enactment of this Act; (2) affect any water right of the Pechanga Band of Luiseno Mission Indians in existence before the date of the enactment of this Act; or (3) terminate any right-of-way or right-of-use issued, granted, or permitted before the date of enactment of this Act."

"The lands transferred . . . may be used only as open space and for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources thereon . . . There shall be no roads other than for maintenance purposes constructed on the lands transferred . . . There shall be no development of infrastructure or buildings on the land transferred . . ."

"The Pechanga Band of Luiseno Mission Indians may not conduct, on any land acquired by the Pechanga Band of Luiseno Mission Indians pursuant to this Act, gaming activities or activities conducted in conjunction with the operation of a casino. . . ."

Omnibus Public Land Management Act, Transfer of Land to be Held in Trust for Washoe Tribe, Pub. L. No. 111-11, § 2601(h), 123 Stat. 991, 1115 (2009).	
Purpose	Declares certain Forest Service land to be held in trust for the Washoe Tribe.
Tribe Involved	Washoe Tribe
Agency Involved	Forest Service
State	Nevada
Acreage	293 acres

Land Administration

"Land taken into trust . . . shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703))."

"With respect to the use of the land taken into trust under paragraph (1) that is above the 5,200′ elevation contour, the Tribe (i) shall limit the use of the land to (I) traditional and customary uses; and (II) stewardship conservation for the benefit of the Tribe; and (ii) shall not permit any (I) permanent residential or recreational development on the land; or (II) commercial use of the land, including commercial development or gaming."

"With respect to the use of the land taken into trust . . . the Tribe shall limit the use of the land below the 5,200′ elevation to (i) traditional and customary uses; (ii) stewardship conservation for the benefit of the Tribe; and (iii)(I) residential or recreational development; or (II) commercial use."

"With respect to the land taken into trust . . . the Secretary of Agriculture, in consultation and coordination with the Tribe, may carry out any thinning and other landscape restoration activities on the land that is beneficial to the Tribe and the Forest Service."

Omnibus Public Land Management Act, Correction of Skunk Harbor Conveyance, Pub. L. No. 111-11, § 2601(i), 123 Stat. 991, 1115 (2009).	
Purpose	Amends Public Law 108-67 to make a technical correction relating to the land conveyance authorized under that Act.
Tribe Involved	Washoe Tribe
Agency Involved	Forest Service
State	California
Acreage	None.

Land Administration

"Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to, or use of, land remaining within the Lake Tahoe Basin Management Unit after the conveyance . . . including access to, and use of, the beach and shoreline areas adjacent to the portion of land conveyed. . . ."

Omnibus Public Land Management Act, Transfer of Land into Trust for Shivwits Band of Paiute Indians, Pub. L. No. 111-11, § 1982, 123 Stat. 991, 1093 (2009).	
Purpose	Declares certain Bureau of Land Management land to be held in trust for the Shivwits Band of Paiute Indians.
Tribe Involved	Shivwits Band of Paiute Indians
Agency Involved	Bureau of Land Management
State	Utah
Acreage	640 acres
Land Administration "Nothing in this section affects any valid right in existence on the date of enactment of this Act . . . or constitutes an express or implied reservation of water or a water right. . . ."	

Hoh Indian Tribe Safe Homelands Act, Pub. L. No. 111-323, 124 Stat. 3532 (2010).	
Purpose	Declares certain land in Olympic National Park to be held in trust for the Hoh Indian Tribe.
Tribe Involved	Hoh Indian Tribe
Agency Involved	National Park Service
State	Washington
Acreage	37 acres
Land Administration "No commercial, residential, industrial, or other building or structure shall be constructed on the Federal land. . . ." "The Tribe (i) shall preserve and protect the condition of the Federal land as in existence on the date of enactment of this Act; and (ii) shall not carry out any activity that would adversely affect the natural environment of the Federal land, except as otherwise provided by this Act." "To maintain use of the Federal land as a natural wildlife corridor and provide for protection of existing resources of the Federal land, no logging or hunting shall be allowed on the Federal land." "Routine maintenance may be conducted on the 2-lane county road that crosses the Federal land as in existence on the date of enactment of this Act . . . no other road or access route shall be permitted on the Federal land." "The Tribe may authorize any member of the Tribe to use the Federal land for (i) ceremonial purposes; or (ii) any other activity approved by a treaty between the United States and the Tribe." "The Secretary and the Tribe shall enter into cooperative agreements (A) for joint provision of emergency fire aid . . . (B) to provide opportunities for the public to learn more regarding the culture and traditions of the Tribe." "The Secretary and the Tribe may develop and establish on land taken into trust for the benefit of the Tribe pursuant to this Act a multipurpose, nonmotorized trail from Highway 101 to the Pacific Ocean."	

"The Secretary and the Tribe shall work cooperatively on any other issues of mutual concern relating to land taken into trust for the benefit of the Tribe pursuant to this Act."

"The Tribe may not conduct on any land taken into trust pursuant to this Act any gaming activities. . . ."

Quileute Indian Tribe Tsunami and Flood Protection, Pub. L. No. 112-97, 126 Stat. 257 (2012).	
Purpose	Declares certain lands in Olympic National Park to be held in trust for the Quileute Indian Tribe for the purposes of tsunami and flood protection.
Tribe Involved	Quileute Indian Tribe
Agency Involved	National Park Service
State	Washington
Acreage	785 acres

Land Administration

"Any easement granted under this subsection must contain the following express terms . . . (A) An easement shall not limit the Tribe's treaty rights or other existing rights . . . (B) The Tribe retains the right to enforce its rules against visitors for disorderly conduct, drug and alcohol use, use or possession of firearms, and other disruptive behaviors . . . (C) The Park has the right, with prior notice to the Tribe, to access lands conveyed to the Tribe for purposes of monitoring compliance with any easement made under this subsection."

"Certain land that will be added to the northern boundary of the Reservation by the land conveyance, from Rialto Beach to the east line of Section 23, shall be subject to an easement, which shall contain the following requirements. . . ."

"Certain Quileute Reservation land along the boundary between the Park and the southern portion of the Reservation, encompassing the Second Beach trailhead, parking area, and Second Beach Trail, shall be subject to a conservation and management easement, as well as any other necessary agreements, which shall implement the following provisions. . . ."

"All other land conveyed to the Tribe along the southern boundary of the Reservation under this section shall not be subject to any easements or conditions, and the natural conditions of such land may be altered to allow for the relocation of Tribe members and structures outside the tsunami and Quillayute River flood zones."

"Nothing in this Act is intended to require the modification of the parklands and resources adjacent to the transferred Federal lands. The Tribe shall be responsible for developing its lands in a manner that reasonably protects its property and facilities from adjacent parklands by locating buildings and facilities an adequate distance from parklands to prevent damage to these facilities from such threats as hazardous trees and wildfire."

"[T]he placement of conveyed lands into trust for the benefit of the Tribe, any claims of the Tribe against the United States, the Secretary, or the Park relating to the Park's past or present ownership, entry, use, surveys, or other

activities are deemed fully satisfied and extinguished upon a formal Tribal Council resolution. . . ."

"No land taken into trust for the benefit of the Tribe under this Act shall be considered Indian lands for the purpose of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."

Sandia Pueblo Settlement Technical Amendment Act, Pub. L. No. 113-119, 128 Stat. 1185 (2014).	
Purpose	Amends the T'uf Shur Bien Preservation Trust Area Act to require the Secretary of Agriculture to transfer certain National Forest land to the Sandia Pueblo if a land exchange is not completed.
Tribe Involved	Sandia Pueblo
Agency Involved	Forest Service
State	New Mexico
Acreage	Acreage is not specified.
Land Administration "[S]ubject to the restriction enforced by the Secretary of the Interior that the land remain undeveloped, with the natural characteristics of the land to be preserved in perpetuity. . . ."	

Shingle Springs Land Conveyance, Pub. L. No. 113-127, 128 Stat. 1424 (2014).	
Purpose	Declares certain Bureau of Land Management lands to be held in trust for the Shingle Springs Band of Miwok Indians
Tribe Involved	Shingle Springs Band of Miwok Indians
Agency Involved	Bureau of Land Management
State	California
Acreage	40.852 acres
Land Administration "[S]ubject to valid existing rights and management agreements related to easements and rights-of-way." "Class II and class III gaming under the Indian Gaming Regulatory Act . . . shall not be permitted at any time on the land taken into trust. . . ."	

Pascua Yaqui Tribe Trust Land Act, Pub. L. No. 113-134, 128 Stat. 1732 (2014).	
Purpose	Declares certain public domain land inholdings to be held in trust for the Pascua Yaqui Tribe.
Tribe Involved	Pascua Yaqui Tribe
Agency Involved	Agency not specified.
State	Arizona
Acreage	20 acres
Land Administration	

" [The transfer] shall take effect on the day after the date on which . . . the Secretary (or a delegate of the Secretary) approves and records the lease agreement between the Tribe and the District for the construction and operation of a regional transportation facility located on the restricted Indian land of the Tribe. . . . "

"The Tribe may not conduct gaming activities on the lands held in trust under this Act. . . ."

"There shall not be Federal reserved rights to surface water or groundwater for any land taken into trust by the United States for the benefit of the Tribe under this Act."

"The Tribe retains any right or claim to water under State law for any land taken into trust by the United States for the benefit of the Tribe under this Act."

"Any water rights that are appurtenant to land taken into trust by the United States for the benefit of the Tribe under this Act may not be forfeited or abandoned."

Nevada Native Nations Land Act, Pub. L. No. 114-232, 120 Stat. 958 (2016).	
Purpose	Declares certain public domain lands to be held in trust for various Nevada tribes.
Tribe Involved	Fort McDermitt Paiute and Shoshone Tribe, Shoshone Paiute Tribes, Summit Lake Paiute Tribe, Reno-Sparks Indian Colony, Pyramid Lake Paiute Tribe, Duckwater Shoshone Tribe
Agency Involved	Bureau of Land Management, Forest Service
State	Nevada
Acreage	▪ Fort McDermitt Paiute and Shoshone Tribe: 19,094 acres ▪ Shoshone Paiute Tribes: 82 acres ▪ Summit Lake Paiute Tribe: 941 acres ▪ Reno-Sparks Indian Colony: 13,434 acres ▪ Pyramid Lake Paiute Tribe: 6,357 acres ▪ Duckwater Shoshone Tribe: 31,229 acres Total: 71,137 acres

Land Administration

All conveyances:

"Subject to valid existing rights. . . ."

"Land taken into trust . . . shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703))."

"With respect to the land taken into trust . . . the Secretary, in consultation and coordination with the applicable Indian tribe, may carry out any fuel reduction and other landscape restoration activities, including restoration of sage grouse habitat, on the land that is beneficial to the Indian tribe and the Bureau of Land Management."

Shoshone Paiute Tribes:

"[S]ubject to the reservation of an easement on the conveyed land for a road to provide access to adjacent National Forest System land for use by the Forest Service for administrative purposes."

Western Oregon Tribal Fairness Act, Pub. L. No. 115-103, 131 Stat. 2253 (2018).	
Purpose	▪ Title I: Declares certain public domain land to be held in trust for the Cow Creek Band of Umpqua Tribe of Indians. ▪ Title II: Declares certain public domain land to be held in trust for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians ▪ Title III: Amends the Coquille Restoration Act to remove certain regulations on Coquille Forest management.
Tribe Involved	▪ Title I: Cow Creek Band of Umpqua Tribe of Indians ▪ Title II: Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians ▪ Title III: Coquille Tribe
Agency Involved	Bureau of Land Management
State	Oregon
Acreage	▪ Title I: 17,519 acres ▪ Title II: 14,742 acres ▪ Title III: None. Total: 32,261 acres
Land Administration Title I: "Subject to valid existing rights, including rights-of-way. . . ." "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." "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.)." "Any forest management activity that is carried out on the Council Creek land shall be managed in accordance with all applicable Federal laws." "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." "[T]he 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." "[T]he Tribe shall continue the access provided by the agreements . . . in perpetuity."	

"[T]he 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.)."

Title II:

"Subject to valid existing rights, including rights-of-way. . . ."

"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. . . ."

"Any real property taken into trust . . . shall not be eligible, or used, for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.)."

"Any forest management activity that is carried out on the Oregon Coastal land shall be managed in accordance with all applicable Federal laws."

"[T]he 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, (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. . . ."

"[T]he Secretary shall provide to the Confederated Tribes all reciprocal right-of-way agreements to the Oregon Coastal land . . . the Confederated Tribes shall continue the access provided by the reciprocal right-of-way agreements . . . in perpetuity."

"[O]nce 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.)."

Title III:

"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. . . ."

"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. . . ."

John D. Dingell, Jr. Conservation, Management, and Recreation Act, Pascua Yaqui Tribe Land Conveyance, Pub. L. No. 116-9, § 1007, 133 Stat. 580, 592 (2019).	
Purpose	Declares certain public domain land to be held in trust for the Pascua Yaqui Tribe of Arizona.
Tribe Involved	Pascua Yaqui Tribe of Arizona
Agency Involved	Agency not mentioned.
State	Arizona
Acreage	39.65 acres
Land Administration	

"Subject to valid existing rights . . ."

"The Tribe may not conduct gaming activities on lands taken into trust pursuant to this section. . . ."

"There shall be no Federal reserved right to surface water or groundwater for any land taken into trust . . . The Tribe retains any right or claim to water under State law for any land taken into trust . . . Any water rights that are appurtenant to land taken into trust by the United States for the benefit of the Tribe under this section may not be forfeited or abandoned. . . ."

"Nothing in this section affects or modifies any right of the Tribe or any obligation of the United States under Public Law 95–375."

John D. Dingell Jr. Conservation, Management, and Recreation Act, Off-Highway Vehicle Recreation Areas, Pub. L. No. 116-9, § 1441, 133 Stat. 580, 701 (2019).	
Purpose	Amends Public Law 103-433 to declare certain public domain land to be held in trust for the Lone Pine Paiute-Shoshone Tribe.
Tribe Involved	Lone Pine Paiute-Shoshone Tribe
Agency Involved	Agency not mentioned.
State	California
Acreage	132 acres

Land Administration

"The land . . . shall be subject to all easements, covenants, conditions, restrictions, withdrawals, and other matters of record in existence on the date of enactment of this title."

"The Federal land over which the right-of-way for the Los Angeles Aqueduct is located . . . shall not be taken into trust for the Tribe."

"Land held in trust . . . shall not be eligible, or considered to have been taken into trust, for gaming (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.))."

Leech Lake Band of Ojibwe Reservation Restoration Act, Pub. L. No. 116-255, 134 Stat. 1139 (2020).	
Purpose	To declare certain Chippewa National Forest land to be held in trust for the Leech Lake Band of Ojibwe.
Tribe Involved	Leech Lake Band of Ojibwe
Agency Involved	Forest Service
State	Minnesota
Acreage	11,760 acres

Land Administration

"A comprehensive review of the Federal land demonstrated that (A) a portion of the Federal land is encumbered by (i) utility easements; (ii) rights-of-way for roads; and (iii) flowage and reservoir rights . . . on reacquisition by the Tribe of the Federal land, the Tribe (A) has pledged to respect the easements, rights-of-way, and other rights described. . . ."

"[O]n reacquisition by the Tribe of the Federal land, the Tribe (A) has pledged to respect the easements, rights-of-way, and other rights described . . .

and (B)(i) does not intend immediately to modify the use of the Federal land; but (ii) will keep the Federal land in tax-exempt fee status as part of the Chippewa National Forest until the Tribe develops a plan that allows for a gradual subdivision of some tracts for economic and residential development by the Tribe."

"Subject to valid existing rights. . . ."

"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 Federal land."

"The Federal land shall not be eligible or used for any gaming activity carried out under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."

"Any commercial forestry activity carried out on the Federal land shall be managed in accordance with applicable Federal law."

Consolidated Appropriations Act, National Bison Range Restoration, Pub. L. No. 116-260, div. DD § 12, 134 Stat. 1182, 3029 (2020).	
Purpose	Declares all land comprising the National Bison Range to be held in trust for the Confederated Salish and Kootenai Tribes.
Tribe Involved	Confederated Salish and Kootenai Tribes
Agency Involved	Fish and Wildlife Service
State	Montana
Acreage	18,766 acres

Land Administration

"The land restored . . . shall be managed by the Tribes . . . solely for the care and maintenance of bison, wildlife, and other natural resources, including designation or naming of the restored land.

"In managing the land restored . . . the Tribes shall (A) provide public access and educational opportunities; and (B) at all times, have a publicly available management plan for the land, bison, and natural resources, which shall include actions to address management and control of invasive weeds."

"The United States relinquishes to the Tribes all interests of United States in the bison on the land restored. . . ."

"Notwithstanding any other provision of law, during the 2-year period beginning on the date of enactment of this Act, the Secretary shall cooperate with the Tribes in transition activities regarding the management of land, bison, and other resources conveyed by this Act. . . ."

"The land restored by this section shall not be eligible or used for any gaming activity carried out under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."