

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

May 3, 2018

To: All Subcommittee on Indian, Insular and Alaska Native Affairs Members

From: Majority Committee Staff,
Subcommittee Indian, Insular and Alaska Native Affairs (x6-9725)

Hearing: **H.R. 3535 (Rep. Doug LaMalfa, R-CA)**, To restore Federal recognition to the Ruffey Rancheria of California, and for other purposes.
May 8, 2018, 10:15 am; 1324 Longworth HOB

H.R. 3535 (Rep. Doug LaMalfa), the “*Ruffey Rancheria Restoration Act of 2017*”

Summary of the bill

H.R. 3535 would provide for the federal recognition of the Ruffey Rancheria of California located in Siskiyou County, California. The bill would allow the Tribe to apply to have approximately 441 acres placed into trust to be made part of its reservation. The bill sets forth a process by which the Secretary of the Interior would determine Tribal membership rolls prior to the interim Tribal council’s compilation and adoption of a Tribal constitution. The Tribe would be eligible to game on lands that meet the restored lands exemption under the Indian Gaming Regulatory Act;¹ however, the Tribe will only have five years to apply and must satisfy two criteria under the bill.

Cosponsors

None.

Background

The Ruffey Rancheria is a group of Indians living in Siskiyou County, California. The entity consists of Indian people who have historical connections to the vicinity of Etna, California. According to the group, the tribal entity has strong social bonds in Siskiyou County at Etna, Salmon River, Ager, and Bogus, and whose families intermarried with each other. They shared the cultural, spiritual, and political leadership of elders such as Moffett Creek Jake and Old Man Ruffey. The group’s ancestors participated in the negotiations for California’s unratified “Treaty R” in 1851.² The California State legislature petitioned Congress to provide the group with a reservation in 1874.³

¹ 25 U.S.C. §2719(b)(1)(B).

² “Treaty R” in *The Eighteen Unratified Treaties of 1851-1852 Between the California Indians and the United States Government*. Robert F. Heizer (Berkeley: University of California Archaeological Research Facility, 1972), 97-101.

³ U.S. Congress. House of Representatives. Mis. Doc. No. 177, 43d. Cong. 1st.Sess. (1874).

In 1907, Special Agent for California Indians C. E. Kelsey purchased 441 acres of land for the “Etna Band of Indians,” as the group was then known, pursuant to the Act of June 21, 1906.⁴ By 1915, a census of the group had enumerated some 56 individuals as part of the Ruffeys.⁵

During the termination policy era of the 1950s, Congress terminated the Rancheria, along with others, under the Rancheria Act of 1958.⁶ The termination of the Ruffey Rancheria proceeded in 1959 with the involvement of only the three surviving descendants. The termination went into effect in April 1961, and was published in the Federal Register.⁷

In the 1980s, aided by California Indian Legal Services, an Indian named Tillie Hardwick filed a lawsuit against the Bureau of Indian Affairs challenging the congressional termination of her Rancheria and others. In 1983, the U.S. District Court for Northern California approved a Stipulated Settlement negotiated between the government and several terminated Rancherias under which the government would recognize the Rancherias as tribes. The settlement provided that the Ruffey Rancheria claims were dismissed without prejudice.⁸

Major Provisions of the Bill

Section 2. Restoration of Federal Recognition, Rights, And Privileges. Provides that the Rancheria would be given many of the same powers and benefits as other federally-recognized tribes. Due to the absence of an initial reservation, members located within the Tribe’s service area will be available for federal services furnished to federally-recognized tribes.

Section 3. Transfer of Land to be Held in Trust. Provides that after the Tribe submits a trust application, approximately 441 acres of land in Siskiyou County, California, shall be placed into trust to be part of the Tribe’s reservation. Former trust lands of the Tribe may be eligible for trust status. Any lands taken into trust for the Tribe as part of the reservation shall be exempt from federal, State and local taxation.

Section 4. Membership Rolls. Section 4 sets forth enrollment criteria for the Tribe. Until a Tribal constitution is adopted, the Secretary of the Interior shall list an individual on the tribal membership roll if an individual is: not a member of another federally-recognized tribe; whose name can be traced to a Bureau of Indian Affairs (BIA) distribution list published April 11, 1961; was not listed but met requirements of the list; or an individual can trace ancestry on any documents prepared by the BIA for several listed California vicinities; or an individual is a lineal descendant of a person who meets the previous criteria.

The Secretary shall accept any available evidence establishing tribal ancestry. Conclusive evidence shall be contained in the census of several areas outlined, or roll or census prepared by or at the direction of the BIA, U.S. Census Bureau, or in the Ruffey Rancheria distribution list published in 1961.

⁴ Public Law No. 59-258.

⁵ Report of the Commissioner of Indian Affairs to the Secretary of the Interior. June, 1915.

⁶ Public Law 85-671, 72 Stat. 619.

⁷ 26 Fed. Reg. 3073.

⁸ Tillie Hardwich et al. v. U.S. et al. No. C-79-1710-SW. Stipulation for Entry of Judgment.

The Tribal constitution shall govern Tribal membership after its adoption.

Section 5. Interim Government. Prior to adoption of a Tribal constitution, an interim Tribal council is to be established consisting of the Executive Council of the Tribe as it exists on the date of enactment of this Act.

Section 6. Tribal Constitution. After the compilation of the Tribal membership roll under section 4 and at the request of the interim Tribal council, the Secretary shall conduct an election to ratify a final constitution for the Tribe. The election shall be consistent with provisions of the Indian Reorganization Act of 1934 relating to tribal constitutions.

No later than 120 days after the Secretary ratifies the Tribal constitution, the Secretary will conduct a secret ballot to elect Tribal officials.

Section 7. Limitations on Indian Gaming on Acquired Lands. Section 7 provides that gaming may be conducted on lands acquired by the Tribe if the Tribe meets the restored lands exception under section 20 of Indian Gaming Regulatory Act. However, the time limit for the Tribe to seek a casino under the bill is five years of enactment, and the gaming must be within 25 miles of the land placed into trust under this Act.

Cost

Unknown at this time.

Administration Position

At the September 26, 2017, hearing on the bill, the Department of the Interior testified that it welcomed the opportunity to assist the sponsor on a number of technical recommendations.

Anticipated Amendment

The Committee anticipates an amendment in the nature of a substitute to establish that the Tribe's service area and lands eligible for gaming may only be located within Siskiyou County, California. The amendment would also prohibit the Secretary from placing any lands into trust for the Tribe within the State of Oregon. Lastly, the amendment would clarify that membership criteria shall be linked to BIA documents, rather than Census data.

The Committee also anticipates a number of amendments from the Minority.