

Advancing Tribal Parity on Public Lands Act

Amendment Summary

The Advancing Tribal Parity on Public Lands Act amends Bureau of Land Management authorities, United States Forest Service authorities, and antiquated Tribal statutes. The following shows the changes made by the Act to these authorities.

Bureau of Land Management Authorities Amendments

FEDERAL LAND POLICY AND MANAGEMENT ACT

43 U.S.C. 1711

Sec. 201. Inventory and Identification.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State, local, **and Tribal** governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

43 U.S.C. 1712

Sec. 202. Land Use Planning.

(c) In the development and revision of land use plans, the Secretary shall—

...

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended [16 U.S.C. 460l–4 et seq. note], and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State, local, **and Tribal** government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State, local, **or Tribal** plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

...

(f) The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, local, or Tribal governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

43 U.S.C. 1716

Sec. 206. Exchanges.

(a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management, the interests of Indian Tribes (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130)), and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

43 U.S.C. 1720

Sec. 210. Coordination with State, Tribal, and local governments.

At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located, interested Indian Tribes (as defined in section 2(a)(1) of the Advancing Tribal Parity on Public Lands Act), and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

43 U.S.C. 1739

Sec. 309. Advisory Councils and Public Participation.

(a) Establishment of Advisory Councils.—

(1) Definitions.—In this subsection:

(A) Cultural site.—The term “cultural site” means—

(i) a sacred site;

(ii) a historic property (as defined in section 800.16 of title 36, Code of Federal Regulations (as in effect on the date of enactment of the Advancing Tribal Parity on Public Lands Act)); or

(iii) a landform or landscape that—

(I) is the site of important customs, practices, objects, places, religions, or ceremonies of Indian Tribes;

(II) is important to an Indian Tribe for the undertaking of religious, cultural, spiritual, or traditional practices;

- (III) is connected through features or ceremonies to other sites or a larger sacred landscape;
- (IV) contains unique traditional food, medicinal, or material gathering areas; or
- (V) contains important traditional food, medicinal, or material gathering areas.

(B) Former reservation.—The term “former reservation” means land that is within the exterior boundaries of any previous reservation that was established by treaty, Executive order, or Secretarial order for an Indian Tribe.

(C) Indian Tribe.—The term “Indian Tribe” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(D) Interested Indian Tribe.—The term “interested Indian Tribe”, with respect to the public lands within an area for which an advisory council is established under this section, means an Indian Tribe with—

- (i) historic, prehistoric, cultural, or religious connection to a cultural site located on the public lands;
- (ii) a former reservation located on the public lands; or
- (iii) treaty rights or other reserved rights that can be exercised on the public lands.

(E) Sacred site.—The term “sacred site” means a specific, discrete, narrowly delineated site on public lands that is identified by an Indian Tribe as sacred by virtue of the established religious significance of the site to, or ceremonial use of the site by, an Indian Tribe.

(2) Establishment.—The Secretary shall establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens’ and Tribal interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established.

(3) Requirements for membership.—

(A) In general.—At least ~~one~~ 1 member of each advisory council established under this section shall be an elected official of general purpose government serving the people of such area.

(B) Interested Indian Tribes.—At least 1 member of each advisory council established under this section shall be a representative of an interested Indian Tribe.

(4) No duplication.—To the extent practicable there shall be no overlap or duplication of such councils.

(5) Appointments.—Appointments shall be made in accordance with rules prescribed by the Secretary.

(6) Requirement.—The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U. S.C. App. 1).

FEDERAL LAND TRANSACTION FACILITATION ACT

43 U.S.C. 2302

Definitions.

(1) Exceptional resource.—The term “exceptional resource” means a resource of scientific, natural, historic, cultural, or recreational value, **including sacred sites and land that affects the exercise of treaty or other reserved rights** that has been documented by a Federal, State, Tribal, or local governmental authority, and for which there is a compelling need for conservation and protection under the jurisdiction of a Federal agency in order to maintain the resource for the benefit of the public.

(2) Cultural site.—The term “cultural site” means—

(A) a sacred site;

(B) a historic property (as defined in section 800.16 of title 36, Code of Federal Regulations (as in effect on the date of enactment of the Advancing Tribal Parity on Public Lands Act)); or

(C) a landform or landscape that—

(i) is the site of important customs, practices, objects, places, religions, or ceremonies of Indian Tribes;

(ii) is important to an Indian Tribe for the undertaking of religious, cultural, spiritual, or traditional practices;

(iii) is connected through features or ceremonies to other sites or a larger sacred landscape;

(iv) contains unique traditional food, medicinal, or material gathering areas; or

(v) contains important traditional food, medicinal, or material gathering areas.

(3) Federally designated area.—The term “federally designated area” means...

(4) Former reservation.—The term “former reservation” means land that is within the exterior boundaries of any previous reservation that was established by treaty, Executive order, or Secretarial order for an Indian Tribe.

(5) Inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes.—The term “inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes” means public lands in Alaska and the eleven contiguous Western States (as defined in section 1702 of this title) consisting of at least 640 contiguous acres on which the public is allowed under Federal or State law to hunt, fish, target shoot or use the land for other recreational purposes but—

(A) to which there is no public access or egress; or

(B) to which public access or egress to the land is significantly restricted, as determined by the Secretary.

(6) Indian Tribe.—The term “Indian Tribe” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(7) Inholding.—The term “inholding” means any right, title, or interest, held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally designated area.

(8) Interested Indian Tribe.—The term ‘interested Indian Tribe’, with respect to an inholding identified under section 204(a)(1), means an Indian Tribe with—

(A) historic, prehistoric, cultural, or religious connection to a cultural site located on the inholding;

(B) a former reservation located on the inholding; or

(C) treaty rights or other reserved rights that can be exercised on the inholding.

(9) Public land.—The term “public land” means public lands (as defined in section 1702 of this title).

(10) Sacred site.—The term “sacred site” means a specific, discrete, narrowly delineated site on Federal land that is identified by an Indian Tribe as sacred by virtue of the established religious significance of the site to, or ceremonial use of the site by, an Indian Tribe.

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

43 U.S.C. 2303

Identification of inholdings.

(b) **Public notice** As soon as practicable after July 25, 2000, and periodically thereafter, the Secretary and the Secretary of Agriculture shall provide public notice, **including notice to all interested Indian Tribes**, of the procedures referred to in subsection (a), including any information necessary for the consideration of an inholding under section 2305 of this title. Such notice shall include publication in the Federal Register and by such other means as the Secretary and the Secretary of Agriculture determine to be appropriate.

43 U.S.C. 2305

Federal Land Disposal Account.

(3) Priority

The Secretary and the Secretary of Agriculture shall develop a procedure for prioritizing the acquisition of inholdings and non-Federal lands with exceptional resources as provided in paragraph

(2). Such procedure shall consider--

(A) the date the inholding was established (as provided in section 2303(c) of this title);

(B) the extent to which the acquisition of the land or interest therein will increase the public availability of resources for, and facilitate public access to, hunting, fishing, and other recreational activities;

(C) the extent to which the acquisition of the land or interest therein will uphold the United States treaty and trust obligations to Indian Tribes and the preservation of Native American culture and religion; and

(D) the extent to which acquisition of the land or interest therein will facilitate management efficiency;

(E) such other criteria as the Secretary and the Secretary of Agriculture deem appropriate.

RECREATION AND PUBLIC PURPOSES ACT

43 U.S.C. 869

Disposal of lands for public or recreational purposes

(a) ~~Application; conditions; classification; restoration if not applied for~~ **Authority to Dispose of Public Lands.—**

(1) **DEFINITIONS.—**In this subsection:

(A) **CULTURAL SITE.—**The term “cultural site” means—

(i) a sacred site;

(ii) a historic property (as defined in section 800.16 of title 36, Code of Federal Regulations (as in effect on the date of enactment of the Advancing Tribal Parity

on Public Lands Act)); or

(iii) a landform or landscape that—

(I) is the site of important customs, practices, objects, places, religions, or ceremonies of Indian Tribes;

(II) is important to an Indian Tribe for the undertaking of religious, cultural, spiritual, or traditional practices;

(III) is connected through features or ceremonies to other sites or a larger sacred landscape;

(IV) contains unique traditional food, medicinal, or material gathering areas; or

(V) contains important traditional food, medicinal, or material gathering areas.

(B) FORMER RESERVATION.—The term “former reservation” means land that is within the exterior boundaries of any previous reservation that was established by treaty, Executive order, or Secretarial order for an Indian Tribe.

(C) INDIAN TRIBE.—The term “Indian Tribe” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(D) INTERESTED INDIAN TRIBE.—The term “interested Indian Tribe”, with respect to a tract of public lands subject to proposed disposition by the Secretary of the Interior under paragraph (2), means an Indian Tribe with—

(i) historic, prehistoric, cultural, or religious connection to a cultural site located on the tract of public lands;

(ii) a former reservation located on the tract of public lands; or

(iii) treaty rights or other reserved rights that can be exercised on the tract of public lands.

(E) SACRED SITE.—The term “sacred site” means a specific, discrete, narrowly delineated site on public lands that is identified by an Indian Tribe as sacred by virtue of the established religious significance of the site to, or ceremonial use of the site by, an Indian Tribe.

(2) AUTHORITY.—The Secretary of the Interior upon application filed by a duly qualified applicant under section 869–1 of this title may, in the manner prescribed by sections 869 to 869–4 of this title, dispose of any public lands to a State, Indian Tribe, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles of incorporation or other creating authority. Before the land may be disposed of under sections 869 to 869–4 of this title it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that disposal of the land will not impact the rights and interests of an interested Indian Tribe, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under sections 869 to 869–4 of this title, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one

public meeting on any proposed disposal of more than six hundred forty acres under sections 869 to 869–4 of this title. The Secretary may classify public lands in Alaska for disposition under sections 869 to 869–4 of this title. Lands so classified may not be appropriated under any other public land law unless the Secretary revises such classification or authorizes the disposition of an interest in the lands under other applicable law. If, within eighteen months following such classification, no application has been filed for the purpose for which the lands have been so classified, then the Secretary shall restore such lands to appropriation under the applicable public land laws.

United States Forest Service Authorities Amendments

SMALL TRACTS ACT

16 U.S.C. 521c

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this Act—

- ~~(1) the term “person” includes any State or any political subdivision or entity thereof;~~
- ~~(2) the term “interchange” means a land transfer~~
- ~~(3) the term “Secretary” means the Secretary of Agriculture of the United States.~~

SECTION 1. DEFINITIONS.

In this Act:

- (1) Indian Tribe.—The term ‘Indian Tribe’ means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).
- (2) Interchange.—The term “interchange” means a land transfer in which the Secretary and another person exchange titles to lands or interests in lands of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and under such regulations as the Secretary may prescribe.
- (3) Person.—The term “person” includes any State or Indian Tribe or any political subdivision or entity of a State or Indian Tribe.
- (4) Secretary.—The term “Secretary” means the Secretary of Agriculture.

TOWNSITES ACT

16 U.S.C. 478a

Townsites.

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land ~~would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership~~ **is in the public interest**, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any

one application. After public notice, and satisfactory showing of need therefor by any **Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130))** or county, city, or other local governmental subdivision, the Secretary may offer such area for sale to **an Indian Tribe or** governmental subdivision at a price not less than the fair market value thereof: Provided, however, That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the **Indian Tribe or** governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

MULTIPLE USE AND SUSTAINED YIELD ACT

16 U.S.C. 530

Cooperation for purposes of development and administration with State and local governmental agencies and others

In the effectuation of **sections 528 to 531 of this title** the Secretary of Agriculture is authorized to cooperate with State and local governmental agencies, **interested Indian Tribes**, and others in the development and management of the national forests.

16 U.S.C. 531

~~As used in sections 528 to 531 of this title the following terms shall have the following meanings:~~

SEC. 4. DEFINITIONS.

In this Act:

(1) **INDIAN TRIBE.**—The term “Indian Tribe” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(2) **MULTIPLE USE.**—The term “multiple use” means—

(A) the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people;

(B) making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;

(C) that some land will be used for less than all of the resources; and

(D) harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(3) **SUSTAINED YIELD OF THE SEVERAL PRODUCTS AND SERVICES.**—The term “sustained yield of the several products and services” means...

FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT

16 U.S.C. 1604(a)

(a) Development, maintenance, and revision by Secretary as part of program; coordination

As a part of the Program provided for by section 1602 of this title, the Secretary shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State, Tribal, and local governments and other Federal agencies.

16 U.S.C. 1610

Implementation of provisions by Secretary; utilization of information and data of other organizations; avoidance of duplication of planning, etc.; “renewable resources”

In carrying out this subchapter, the Secretary shall utilize information and data available from other Federal, State, Tribal, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term “renewable resources” shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on August 17, 1974 and on the date of enactment of any legislation amendatory or supplementary thereto.

16 U.S.C. 1612(a)

(a) Adequate notice and opportunity to comment

In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, Tribal, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

16 U.S.C. 1612(b)

(b) Advisory boards

(1) DEFINITIONS.—In this subsection:

(A) CULTURAL SITE.—The term “cultural site” means—

- (i) a sacred site;**
- (ii) a historic property (as defined in section 800.16 of title 36, Code of Federal Regulations (as in effect on the date of enactment of the Advancing Tribal Parity on Public Lands Act)); or**
- (iii) a landform or landscape that—**
 - (I) is the site of important customs, practices, objects, places, religions, or ceremonies of Indian Tribes;**
 - (II) is important to an Indian Tribe for the undertaking of religious, cultural, spiritual, or traditional practices;**
 - (III) is connected through features or ceremonies to other sites or a larger sacred landscape;**
 - (IV) contains unique traditional food or material gathering areas; or**
 - (V) contains important traditional food or material gathering areas.**

(B) FORMER RESERVATION.—The term ‘former reservation’ means land that is within the exterior boundaries of any previous reservation that was established by treaty, Executive order, or Secretarial order for an Indian Tribe.

(C) INDIAN TRIBE.—The term “Indian Tribe” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band or

component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(D) INTERESTED INDIAN TRIBE.—The term “interested Indian Tribe”, with respect to the public lands within an area for which an advisory council is established under this section, means an Indian Tribe with—

(i) historic, prehistoric, cultural, or religious connection to a cultural site located on the public lands;

(ii) a former reservation located on the public lands; or

(iii) treaty rights or other reserved rights that can be exercised on the public lands.

(E) SACRED SITE.—The term “sacred site” means a specific, discrete, narrowly delineated site on public lands that is identified by an Indian Tribe as sacred by virtue of the established religious significance of the site to, or ceremonial use of the site by, an Indian Tribe.

(2) ESTABLISHMENT.—In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities.

(3) MEMBERSHIP.—

(A) IN GENERAL.—The membership of ~~such boards~~ **each advisory board established under paragraph (2)** shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.

(B) INTERESTED INDIAN TRIBES.—**At least 1 member of each advisory board established under paragraph (2) shall be a representative of an interested Indian Tribe.**

EDUCATION LAND GRANT ACT

16 U.S.C. 479a

(a) Authority to convey

Upon written application, the Secretary of Agriculture may convey National Forest System lands to a public school district **or an entity that operates or controls a school funded by the Bureau of Indian Education** for use for educational purposes if the Secretary determines that—

(1) the public school district **or the entity that operates or controls a school funded by the Bureau of Indian Education** seeking the conveyance will use the conveyed land for a public or publicly funded elementary or secondary school, to provide grounds or facilities related to such a school, or for both purposes;

Antiquated Tribal Statutes

~~43 U.S.C. 856.— Selection of school lands on ceded Indian reservations~~

~~Any State or Territory entitled to indemnity school lands or entitled to select lands for educational purposes under law existing prior to March 2, 1895, may select such lands within the boundaries of any Indian reservation in such State or Territory from the surplus lands thereof, purchased by the~~

~~United States after allotments have been made to the Indians of such reservation, and prior to the opening of such reservation to settlement.
(March 2, 1895)~~

~~**43 U.S.C. 868. Representation of Indian claimants in suits to determine right to school lands**~~

~~In any suit instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian Reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposition thereof by the United States the right of such State may be fully tested and determined without making the Indian tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney General upon the request of such Secretary.~~

~~(March 2, 1901)~~