

BARONA BAND OF MISSION INDIANS LAND TRANSFER
CLARIFICATION ACT OF 2012

DECEMBER 17, 2012.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany S. 3193]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 3193) to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 3193 is to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians.

BACKGROUND AND NEED FOR LEGISLATION

S. 3193 corrects an erroneous legal description for land placed in trust for the benefit of the Barona Band of Mission Indians pursuant to a 2004 Act of Congress. Because of this error, a non-Indian's private land located in another place was wrongly declared to be held in trust. The bill clarifies the legal description of the tribe's trust land, and removes all doubt relating to the specific parcels of land that Congress has placed in trust for the tribe. The bill further clarifies the exclusion of the non-Indian's private property from any federal trust status, stating that it was never the intent of Congress to hold any property under the 2004 Act in trust except that owned by the Barona Band. Under S. 3193, a prohibition on

gaming inserted in the 2004 Act with respect to the tribe's trust land remains in effect.

The Barona Band of Mission Indians is a federally recognized tribe with a reservation located in San Diego County, California. Section 121 of the Native American Technical Corrections Act of 2004 (Public Law 108–204) placed certain lands in San Diego County in trust for the Barona Band of Mission Indians “for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes.” According to S. Rept. 108–049 accompanying S. 523 (the originating bill), the trust lands are intended for “building a water pipeline to assist both the Federal and local fire service by providing a water supply that can be used for any fire suppression activities.”

Soon after the enactment of S. 523 in 2004, it was determined that the legal description of some of the property intended to be held in trust for the tribe contained an error. As a result, private land owned by a non-Indian was inadvertently declared to be held in trust by the U.S., thereby clouding title to his property. According to a September 19, 2007, letter to Senator Dianne Feinstein from the San Diego County Assessor/Recorder/County Clerk, an act of Congress was needed to ensure the correct tribal lands are placed in trust; the error could not be administratively rectified.

S. 3193 corrects the legal description of the Barona Band's trust property and clarifies it was not the intent of Congress to hold the non-Indian's property in trust. The original purposes of the trust land acquisition, and the existing prohibition on gaming on it under Section 121(c) of the 2004 statute, are unchanged. The gaming prohibition contained in the 2004 Act remains in effect on the trust land as corrected by S. 3193.

In the House, a hearing was held on S. 3193 on December 4, 2012, in the Subcommittee on Indian and Alaska Native Affairs of the Committee on Natural Resources. Witnesses included Representative Duncan Hunter (R–CA), who represents the Barona Band and the lands affected by S. 3193, the Director of the Bureau of Indian Affairs, and the Chairman of the Barona tribe. The Congressman and the two witnesses expressed unqualified support for enactment of S. 3193. The Director of the Bureau affirmed for the record that the Department of the Interior “finds the legal land descriptions in the bill to be correct.” (Prepared written testimony of Mike S. Black, Director, Bureau of Indian Affairs, December 4, 2012).

COMMITTEE ACTION

S. 3193 was introduced on May 16, 2012, by Senator Dianne Feinstein (D–CA). On September 22, 2012, the bill passed the Senate by unanimous consent with an amendment. The bill was then referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On December 4, 2012, the Subcommittee held a hearing on the bill. On December 5, 2012, the Full Resources Committee met to consider S. 3193. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. No amendments

were offered to the bill and the bill was adopted and ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

S. 3193—Barona Band of Mission Indians Land Transfer Clarification Act of 2012

S. 3193 would amend the legal description of lands taken into federal trust for the benefit of the Barona Band of Mission Indians in California. The amendment would exclude private property that was originally included when the lands were taken into trust under the Native American Technical Corrections Act of 2004. Based on information provided by the Department of the Interior, CBO estimates that the act would have no significant impact on the federal budget. Enacting S. 3193 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 3193 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On July 13, 2012, CBO transmitted a cost estimate for S. 3193, the Barona Band of Mission Indians Land Transfer Clarification Act of 2012, as ordered reported by the Senate Committee on Indian Affairs on June 28, 2012. The two pieces of legislation are nearly identical, and the estimated costs are the same.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the Department of the Interior, CBO estimates that the act would have no significant impact on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective

of this bill is to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2004

* * * * *

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

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Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) * * *

[(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.]

(b) *DESCRIPTION OF LAND.*—*The land referred to in subsection (a) is land comprising approximately 86.87 acres in T. 14 S., R. 1 E., San Bernardino Meridian, San Diego County, California, and described more particularly as follows:*

(1) *The approximately 69.85 acres located in Section 21 and described as—*

(A) *SW1/4 SW1/4, excepting the north 475 feet;*

(B) *W1/2 SE1/4 SW1/4, excepting the north 475 feet;*

(C) *E1/2 SE1/4 SW1/4, excepting the north 350 feet;*

and

(D) the portion of W1/2 SE1/4 that lies southwesterly of the following line: Beginning at the intersection of the southerly line of said SE1/4 of Section 21 with the westerly boundary of Rancho Canada De San Vicente Y Mesa Del Padre Barona as shown on United States Government Resurvey approved January 21, 1939, and thence northwesterly along said boundary to an intersection with the westerly line of said SE1/4.

(2) The approximately 17.02 acres located in Section 28 and described as NW1/4 NW1/4, excepting the east 750 feet.

* * * * *

(d) CLARIFICATIONS.—

(1) EFFECT ON SECTION.—The provisions of subsection (c) shall apply to the land described in subsection (b), as in effect on the day after the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012.

(2) EFFECT ON PRIVATE LAND.—The parcel of private, non-Indian land referenced in subsection (a) and described in subsection (b), as in effect on the day before the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012, but excluded from the revised description of the land in subsection (b) was not intended to be—

(A) held in trust by the United States for the benefit of the Band; or

(B) considered to be a part of the reservation of the Band.

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