

RUFFEY RANCHERIA RESTORATION ACT OF 2018

DECEMBER 20, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3535]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3535) to restore Federal recognition to the Ruffey Rancheria of California, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Ruffey Rancheria Restoration Act of 2018”.

**SEC. 2. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.**

(a) **FEDERAL RECOGNITION.**—Federal recognition is hereby restored to the Tribe. Except as otherwise provided in this Act, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its members.

(b) **RESTORATION OF RIGHTS AND PRIVILEGES.**—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85-671; 72 Stat. 619), are hereby restored, and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of the enactment of this Act. Such Federal treaties and other authority shall not include any treaty, Executive Order, agreement, statute or other authority entered into in the Territory or State of Oregon or affecting any tribe or band of Indians whose historical territory was located therein.

(c) **FEDERAL SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian Tribes or their members. For the purposes of Federal services and benefits available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(2) **RELATION TO OTHER LAWS.**—The eligibility on the part of the Tribe and its members for, or receipt of, services and benefits under paragraph (1) shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to such tribe, individual, or household under—

(A) any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act; or

(B) any other benefit to which such tribe, household, or individual would otherwise be entitled under any Federal or federally assisted program.

(d) **HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**—Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and its members, provided, that any such rights shall not extend into the Territory or State of Oregon.

(e) **CERTAIN RIGHTS NOT ALTERED.**—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(f) **RIGHTS OF THE QUARTZ VALLEY INDIAN RESERVATION.**—Nothing in this Act shall be construed as infringing upon or diminishing the territorial rights or sovereignty of the Quartz Valley Indian Reservation.

### **SEC. 3. TRANSFER OF LAND TO BE HELD IN TRUST.**

(a) **LANDS TO BE TAKEN IN TRUST.**—Upon application by the Tribe, the Secretary shall have the authority under this section to accept into trust for the benefit of the Tribe real property located in Siskiyou County, California, after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes.

(b) **FORMER TRUST LANDS OF THE RUFFEY RANCHERIA.**—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include Indian owned fee land in Siskiyou County, California, that is held by persons listed as distributees or dependent members in the distribution plan approved by the Bureau of Indian Affairs and published in the Federal Register on April 11, 1961, or such distributees' or dependent members' Indian heirs or successors in interest, provided, that such lands shall not include any lands located within the boundaries of the State of Oregon.

(c) **LANDS TO BE PART OF THE RESERVATION.**—Any real property taken into trust for the benefit of the Tribe pursuant to this Act shall be part of the Tribe's reservation.

(d) **LANDS TO BE NONTAXABLE.**—Any real property taken into trust for the benefit of the Tribe pursuant to this section shall be exempt from all local, State, and Federal taxation as of the date that such land is transferred to the Secretary.

### **SEC. 4. MEMBERSHIP ROLLS.**

(a) **COMPILATION OF TRIBAL MEMBERSHIP ROLL.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) **CRITERIA FOR ENROLLMENTS.**—

(1) **PRECONSTITUTION ROLL.**—Until a tribal constitution is adopted pursuant to section 6, an individual shall be placed on the Ruffey Rancheria membership roll if the individual is living, is not an enrolled member of another federally recognized Indian tribe, and if—

(A) such individual's name was listed on the Ruffey Rancheria distribution list compiled by the Bureau of Indian Affairs and approved by the Secretary and published in the Federal Register on April 11, 1961, under Public Law 85-671;

(B) such individual was not listed on, but met the requirements that had to be met to be listed on the Ruffey Rancheria distribution list; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B), and has never been an enrolled member of any other Federally recognized Indian tribe.

(2) **ROLL AFTER ADOPTION OF CONSTITUTION.**—After adoption of a tribal constitution under section 6, such tribal constitution shall govern membership in the Tribe.

(c) **CONCLUSIVE PROOF OF RUFFEY RANCHERIA INDIAN ANCESTRY.**—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing Ruffey Rancheria Indian ancestry. The Secretary shall accept as conclusive evidence of Ruffey Rancheria Indian ancestry information contained in the letter regarding certain lands purchased for the use of Ruffey and other Indians near Etna, California, sent by Charles E. Kelsey, Special Agent for the California Indians, to the Commissioner of Indian Affairs dated June 24, 1913; residence on or adjacent to lands purchased or leased in Siskiyou County, California, by Special Agent Charles E. Kelsey, provided that such lands were occupied by an individual with a bona fide relationship to the Ruffey Rancheria; and in the Ruffey Rancheria distribution list compiled by the Bureau of Indian Affairs and approved by the Secretary and published in the Federal Register on April 11, 1961.

**SEC. 5. INTERIM GOVERNMENT.**

Until a new tribal constitution and bylaws are adopted and become effective under section 6, the governing body of the Tribe shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution of the Tribe adopted on December 19, 2014, as amended by Tribal Resolution 18-02, to the extent that such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim Council shall meet the enrollment criteria set forth in section 4(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted December 19, 2014, as amended by Tribal Resolution 18-02.

**SEC. 6. TRIBAL CONSTITUTION.**

(a) **ELECTION; TIME; PROCEDURE.**—After the compilation of the tribal membership roll under section 4, upon the written request of the Interim Tribal Council, the Secretary shall conduct, by secret ballot, an election for the purpose of ratifying a final constitution for the Tribe. The election shall be held consistent with sections 16(c)(1) and 16(c)(2)(A) of the Act of June 18, 1934 (commonly known as the Indian Reorganization Act; 25 U.S.C. 5123(c)(1) and 5123(c)(2)(A), respectively). Absentee voting shall be permitted regardless of voter residence.

(b) **ELECTION OF TRIBAL OFFICIALS; PROCEDURES.**—Not later than 120 days after the Tribe ratifies a final constitution under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted consistent with the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

**SEC. 7. LIMITATIONS ON INDIAN GAMING ON ACQUIRED LANDS.**

In addition to any other requirements under applicable Federal law, gaming conducted pursuant to an exception under subsection (b)(1)(B) of section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 2719) shall not be conducted on any land taken into trust by the United States for the benefit of the Tribe unless the Secretary determines, on the date that the land is taken into trust, that—

- (1) the Tribe has received a written determination by the Secretary that the land is eligible to be used for gaming under such section; and
- (2) the land is located in the county of Siskiyou, California, 5 miles or less away from lands within such County taken into trust under section 3 of this Act.

**SEC. 8. DEFINITIONS.**

For purposes of this Act:

- (1) **INTERIM COUNCIL.**—The term “Interim Council” means the governing body of the Tribe specified in section 6.
- (2) **MEMBER.**—The term “member” means any person meeting the enrollment criteria under section 4(b).
- (3) **RESERVATION.**—The term “reservation” means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 3.
- (4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (5) **SERVICE AREA.**—The term “service area” means Siskiyou County in the State of California. Neither the Tribe’s service area nor its near-reservation area shall be extended into or located within the State of Oregon for any Federal or State program or service.
- (6) **STATE.**—The term “State” means the State of California.
- (7) **TRIBE.**—The term “Tribe” means the Ruffey Rancheria of California.

## PURPOSE OF THE BILL

The purpose of H.R. 3535 is to restore federal recognition to the Ruffey Rancheria of California.

## BACKGROUND AND NEED FOR LEGISLATION

*Overview of the Ruffey Rancheria Recognition Claims*

The Ruffey Rancheria is a group from Siskiyou, California, seeking federal recognition as an Indian tribe. The entity has provided testimony and other information reporting the following about its history:

The Ruffey group reports that it 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. 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.<sup>1</sup> The California State legislature petitioned Congress to provide the group with a reservation in 1874.<sup>2</sup>

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.<sup>3</sup> By 1915, a census of the group had enumerated some 56 individuals as part of the Ruffeys.<sup>4</sup>

*Termination of Rancherias*

During the termination policy era of the 1950s, Congress terminated the Ruffey Rancheria, along with others, under the Rancheria Act of 1958.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

*Summary of H.R. 3535*

H.R. 3535 would provide for the federal recognition of the Ruffey Rancheria of California located in Siskiyou County, California. The

<sup>1</sup>"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.

<sup>2</sup>U.S. Congress, House of Representatives, Mis. Doc. No. 177, 43d. Cong. 1st.Sess. (1874).

<sup>3</sup>Public Law 59–258.

<sup>4</sup>Report of the Commissioner of Indian Affairs to the Secretary of the Interior, June 1915.

<sup>5</sup>Public Law 85–671, 72 Stat. 619.

<sup>6</sup>26 Fed. Reg. 3073.

<sup>7</sup>*Tillie Hardwich et al. v. U.S. et al.* No. C–79–1710–SW. Stipulation for Entry of Judgment.

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;<sup>8</sup> however, the Tribe must satisfy two criteria under the bill.

SELECTED SECTION-BY-SECTION ANALYSIS OF BILL AS REPORTED

*Section 2. Restoration of Federal Recognition, Rights, And Privileges.* This section 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.* This section 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 distribution list published April 11, 1961; was not listed but met requirements of the list; 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 Ruffey Rancheria distribution list published in 1961. 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 Tribe 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 gaming must be in Siskiyou County and be 5 miles or less from the land placed into trust under Section 3.

<sup>8</sup> 25 U.S.C. 2719(b)(1)(B).

## COMMITTEE ACTION

H.R. 3535 was introduced on July 28, 2017, by Congressman Doug LaMalfa (R-CA). The bill was referred to the Committee on Natural Resources and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. On September 26, 2017, the Subcommittee held a hearing on the legislation. On May 8, 2018, the Committee on Natural Resources met to consider the bill. The Subcommittee was discharged by unanimous consent. Congress LaMalfa offered an amendment in the nature of a substitute designated 051. No amendments were offered to it, and the amendment in the nature of a substitute was adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 19 ayes to 18 noes, as follows:

## Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 05.08.18

Recorded Vote #:1

Meeting on / Amendment on: FC Markup Favorably Report HR 3535 (Rep. Doug LaMalfa)

| MEMBERS                                 | Yes | No | Pres | MEMBERS                       | Yes | No | Pres |
|---|-----|----|------|-------------------------------|-----|----|------|
| <b>Mr. Bishop, UT, Chairman</b>         | X   |    |      | <b>Mr. Cook, CA</b>           | X   |    |      |
| <i>Mr. Grijalva, AZ, Ranking Member</i> |     | X  |      | <i>Mr. McEachin, VA</i>       |     | X  |      |
| <b>Mr. Young, AK, Chairman Emeritus</b> | X   |    |      | <b>Mr. Westerman, AR</b>      | X   |    |      |
| <i>Mrs. Napolitano, CA</i>              |     | X  |      | <i>Mr. Brown, MD</i>          |     | X  |      |
| <b>Mr. Gohmert, TX, Vice Chairman</b>   | X   |    |      | <b>Mr. Graves, LA</b>         |     |    |      |
| <i>Ms. Bordallo, Guam</i>               |     | X  |      | <i>Mr. Clay, MO</i>           |     | X  |      |
| <b>Mr. Lamborn, CO</b>                  | X   |    |      | <b>Mr. Hice, GA</b>           | X   |    |      |
| <i>Mr. Costa, CA</i>                    |     | X  |      | <i>Mr. Gomez, CA</i>          |     | X  |      |
| <b>Mr. Wittman, VA</b>                  | X   |    |      | <b>Mrs. Radewagen, AS</b>     | X   |    |      |
| <i>Mr. Sablan, CNMI</i>                 |     | X  |      | <i>Ms. Velázquez, NY</i>      |     | X  |      |
| <b>Mr. McClintock, CA</b>               | X   |    |      | <b>Mr. Webster, FL</b>        | X   |    |      |
| <i>Ms. Tsongas, MA</i>                  |     | X  |      | <b>Mr. Bergman, MI</b>        |     |    |      |
| <b>Mr. Pearce, NM</b>                   | X   |    |      | <b>Ms. Cheney, WY</b>         | X   |    |      |
| <i>Mr. Huffman, CA</i>                  |     | X  |      | <b>Mr. Johnson, LA</b>        |     |    |      |
| <b>Mr. Thompson, PA</b>                 | X   |    |      | <b>Ms. González-Colón, PR</b> |     |    |      |
| <i>Mr. Lowenthal, CA</i>                |     | X  |      | <b>Mr. Gianforte, MT</b>      | X   |    |      |
| <b>Mr. Gosar, AZ</b>                    | X   |    |      | <b>Mr. Curtis, UT</b>         | X   |    |      |
| <i>Mr. Beyer, VA</i>                    |     | X  |      |                               |     |    |      |
| <b>Mr. Labrador, ID</b>                 |     |    |      |                               |     |    |      |
| <i>Mr. Gallego, AZ</i>                  |     | X  |      |                               |     |    |      |
| <b>Mr. Tipton, CO</b>                   | X   |    |      |                               |     |    |      |
| <i>Ms. Hanabusa, HI</i>                 |     | X  |      |                               |     |    |      |
| <b>Mr. LaMalfa, CA</b>                  | X   |    |      |                               |     |    |      |
| <i>Ms. Barragán, CA</i>                 |     | X  |      |                               |     |    |      |
| <b>Mr. Denham, CA</b>                   |     |    |      |                               |     |    |      |
| <i>Mr. Soto, FL</i>                     |     | X  |      | <b>TOTAL:</b>                 | 19  | 18 |      |

## 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 AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 8, 2018.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3535, the Ruffey Rancheria Restoration Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 3535—Ruffey Rancheria Restoration Act of 2018*

Summary: H.R. 3535 would restore federal recognition to the Ruffey Rancheria Indian tribe in California. Federal recognition would make the tribe and individual members eligible to receive benefits from various federal programs. The bill also would allow the Department of the Interior (DOI) to take into trust property currently owned by the tribe which could permit certain types of gaming on those lands if DOI determines that the land is eligible to be used for such purposes under the Indian Gaming Regulatory Act.

CBO estimates that implementing H.R. 3535 would cost \$5 million over the 2019–2023 period, assuming appropriation of the necessary amounts.

Enacting H.R. 3535 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3535 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3535 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3535 is shown in the following table. The costs



of the legislation fall within budget function 450 (community and regional development) and 550 (health).

|  | By fiscal year, in millions of dollars— |      |      |      |      |      |           |
|--|---|------|------|------|------|------|-----------|
|  | 2018                                    | 2019 | 2020 | 2021 | 2022 | 2023 | 2019–2023 |
| INCREASES IN SPENDING SUBJECT TO APPROPRIATION |   |      |      |      |      |      |           |
| Estimated Authorization Level .....            | 0                                       | 1    | 1    | 1    | 1    | 1    | 5         |
| Estimated Outlays .....                        | 0                                       | 1    | 1    | 1    | 1    | 1    | 5         |

Basis of estimate: For this estimate, CBO assumes that H.R. 3535 will be enacted near the end of 2018 and that the necessary amounts will be appropriated each year beginning in 2019. Estimated outlays follow historical patterns for similar assistance to other tribes.

H.R. 3535 would provide federal recognition to the Ruffey Rancheria of California. Federal recognition would allow the tribe and about 350 tribal members to receive benefits from various programs administered by DOI and the Indian Health Service (IHS). DOI, primarily through the Bureau of Indian Affairs, provides funding to federally recognized tribes for various purposes, including child welfare services, adult care, community development, and other general assistance. IHS provides health services to federally recognized Indian tribes.

Using information provided by DOI, IHS, and the tribe and accounting for anticipated inflation, CBO estimates that providing services to the tribe under the bill would cost \$5 million over the 2019–2023 period. About 60 percent of those costs would be for health care services.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 3535 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 3535 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Robert Reese (Department of the Interior) and Robert Stewart (Indian Health Service); Mandates: Zach Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. 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 restore federal recognition of the Ruffey Rancheria of California.

#### 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.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

## DISSENTING VIEWS

We are strong believers in tribal sovereignty, self-governance, and self-determination. As such, we strongly support the right of Congress to restore wrongfully terminated tribes.

However, Congress must also ensure that any restoration or recognition legislation does not have unresolved issues before enactment. This is to protect the rights of the restored tribe as much as it is to protect the rights of existing tribes and local municipalities. H.R. 3535 fails in this regard.

Four individual tribes—the Karuk Tribe, the Quartz Valley Indian Community, the Confederated Tribes of Siletz Indians, and the Klamath Indian Tribe of Oregon—have all expressed serious concerns regarding H.R. 3535. Collectively, these tribes represent over 12,000 individual tribal members across California and Oregon.

Coalitions representing over 70 California tribal organizations have also voiced their concerns. These include the Northern California Tribal Chairman's Association, the Southern California Tribal Chairman's Association, and the California Nations Indian Gaming Commission. Issues with the bill have also been raised by non-tribal stakeholders, such as the Pacific Coast Federation of Fisherman's Associations and Stand up for California.

The legislative creation of water, fishing, hunting, trapping and gathering rights for Ruffey is problematic. The existence and extent of these rights remain unknown. Specifically, the sudden re-creation of unspecified tribal fishing rights could disrupt and destabilize the current federal, state and tribal salmon allocation systems for the entire Klamath Basin and much of the west coast. Tribal water rights have frequently been determined by federal and state courts to be the most senior existing water rights. Re-creating a new, but undefined, set of tribal water rights in the middle of Siskiyou County could seriously disrupt the current State water rights allocation system.<sup>1</sup>

H.R. 3535 also dictates that the Secretary take land into trust for the Ruffey Rancheria, and mandates that it become part of the Ruffey reservation. The bill originally limited the land acquisition to 441 acres, which was the size of the original rancheria. The adopted Amendment in the Nature of a Substitute (ANS) removes this size stipulation, thereby permitting unlimited, mandatory land acquisition in perpetuity anywhere within Siskiyou County, CA. Subsequently, Ruffey would be allowed to take the aforementioned unknown water, fishing, hunting, trapping and gathering rights and transfer them to these lands. Since the rights that would be

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<sup>1</sup>H.R. 3535 allows the restored reservation land to be sited on the Sacramento or Klamath rivers, even though their original reservation was located in Etna. This could impact the local communities existing water rights, as well as commercial and sport fishermen and local irrigators.

restored originate from the “Tribe and its members,” Congress has no idea what rights would actually be restored. Assessing this impact becomes all the more difficult because the exact location of the Ruffey Rancheria’s land could ultimately be located nearly anywhere within Siskiyou County, CA.

Typically, a congressional restoration of an Indian tribe limits membership to the descendants of the actual tribe that was terminated. H.R. 3535 deviates from this precedent. The bill opens membership up to the descendants of anyone that may have been eligible to be part of the original Ruffey Rancheria, whether they were enrolled or not, as long as they had a “bona fide relationship” to the Rancheria. This is quite vague, as “bona fide” is undefined in the bill, but could possibly include non-Indians like spouses or in-laws.<sup>2</sup>

Finally, both the Karuk Tribe and Quartz Valley Indian Reservation have expressed concerns that this bill would preempt their service areas, which would impact both themselves and tribes with whom they have fund-shifting agreements. The ANS removes the state of Oregon and Shasta County, CA from the proposed Ruffey service area, but does not address the issue within Siskiyou County, CA.

Prior to the markup, Ranking Member Raúl M. Grijalva, along with Subcommittee Ranking Members, Norma Torres and Jared Huffman, officially requested that the Committee hold an additional legislative hearing on H.R. 3535 to allow the area tribes to voice their concerns. The request was denied by the Chair.

Even with the changes incorporated in the ANS, many lingering unanswered questions and serious concerns still remain. Until these issues are addressed, we cannot support H.R. 3535.

RAÚL M. GRIJALVA,  
*Ranking Member, Committee  
 on Natural Resources*  
 JARED HUFFMAN.

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<sup>2</sup>This is the definition of “bona-fide relationship” in other legal documents.