

§ 410zz-3. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 103-364, § 5, Oct. 14, 1994, 108 Stat. 3468.)

SUBCHAPTER LIX-Y—CALIFORNIA DESERT
LANDS PARKS AND PRESERVE

PART A—DEATH VALLEY NATIONAL PARK

§ 410aaa. Findings

The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical and¹ wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a National Park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.].

(Pub. L. 103-433, title III, § 301, Oct. 31, 1994, 108 Stat. 4485.)

REFERENCES IN TEXT

The Wilderness Act, referred to in par. (5), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

SHORT TITLE

Section 1 of Pub. L. 103-433 provided that: "Sections 1 and 2, and titles I through IX of this Act [enacting this subchapter, provisions listed in a table of Wilderness Areas set out under section 1132 of this title, and provisions set out as notes under this section, section 410aaa-82 of this title, and section 1781 of Title 43, Public Lands, and amending provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 431 of this title and a table of Wilderness Areas set out under section 1132 of this title] may be cited as the 'California Desert Protection Act of 1994'."

TIMBISHA SHOSHONE HOMELAND

Pub. L. 106-423, Nov. 1, 2000, 114 Stat. 1875, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Timbisha Shoshone Homeland Act'."

¹ So in original. Probably should be "and".

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) Since time immemorial, the Timbisha Shoshone Tribe has lived in portions of California and Nevada. The Tribe's ancestral homeland includes the area that now comprises Death Valley National Park and other areas of California and Nevada now administered by the Bureau of Land Management.

"(2) Since 1936, the Tribe has lived and governed the affairs of the Tribe on approximately 40 acres of land near Furnace Creek in the Park.

"(3) The Tribe achieved Federal recognition in 1983 but does not have a land base within the Tribe's ancestral homeland.

"(4) Since the Tribe commenced use and occupancy of the Furnace Creek area, the Tribe's membership has grown. Tribal members have a desire and need for housing, government and administrative facilities, cultural facilities, and sustainable economic development to provide decent, safe, and healthy conditions for themselves and their families.

"(5) The interests of both the Tribe and the National Park Service would be enhanced by recognizing their coexistence on the same land and by establishing partnerships for compatible land uses and for the interpretation of the Tribe's history and culture for visitors to the Park.

"(6) The interests of both the Tribe and the United States would be enhanced by the establishment of a land base for the Tribe and by further delineation of the rights and obligations of each with respect to the Furnace Creek area and to the Park as a whole.

"SEC. 3. PURPOSES.

"Consistent with the recommendations of the report required by section 705(b) of the California Desert Protection Act of 1994 [16 U.S.C. 410aaa-75(b)] (Public Law 103-433; 108 Stat. 4498), the purposes of this Act are—

"(1) to provide in trust to the Tribe land on which the Tribe can live permanently and govern the Tribe's affairs in a modern community within the ancestral homeland of the Tribe outside and within the Park;

"(2) to formally recognize the contributions by the Tribe to the history, culture, and ecology of the Park and surrounding area;

"(3) to ensure that the resources within the Park are protected and enhanced by—

"(A) cooperative activities within the Tribe's ancestral homeland; and

"(B) partnerships between the Tribe and the National Park Service and partnerships involving the Bureau of Land Management;

"(4) to ensure that such activities are not in derogation of the purposes and values for which the Park was established;

"(5) to provide opportunities for a richer visitor experience at the Park through direct interactions between visitors and the Tribe including guided tours, interpretation, and the establishment of a tribal museum and cultural center;

"(6) to provide appropriate opportunities for economically viable and ecologically sustainable visitor-related development, by the Tribe within the Park, that is not in derogation of the purposes and values for which the Park was established; and

"(7) to provide trust lands for the Tribe in 4 separate parcels of land that is now managed by the Bureau of Land Management and authorize the purchase of 2 parcels now held in private ownership to be taken into trust for the Tribe.

"SEC. 4. DEFINITIONS.

"In this Act:

"(1) **PARK.**—The term 'Park' means Death Valley National Park, including any additions to that Park.

"(2) **SECRETARY.**—The term 'Secretary' means the Secretary of the Interior or the designee of the Secretary.

"(3) **TRIBAL.**—The term 'tribal' means of or pertaining to the Tribe.

“(4) **TRIBE.**—The term ‘Tribe’ means the Timbisha Shoshone Tribe, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations (or any corresponding similar regulation or ruling).

“(5) **TRUST LANDS.**—The term ‘trust lands’ means those lands taken into trust pursuant to this Act.

“**SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE TIMBISHA SHOSHONE HOMELAND.**

“(a) **IN GENERAL.**—Subject to valid existing rights (existing on the date of enactment of this Act [Nov. 1, 2000]), all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in subsection (b) are declared to be held in trust by the United States for the benefit of the Tribe. All maps referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Bureau of Land Management.

“(b) **PARK LANDS AND BUREAU OF LAND MANAGEMENT LANDS DESCRIBED.**—

“(1) **IN GENERAL.**—The following lands and water shall be held in trust for the Tribe pursuant to subsection (a):

“(A) Furnace Creek, Death Valley National Park, California, an area of 313.99 acres for community development, residential development, historic restoration, and visitor-related economic development, depicted as Tract 37 on the map of Township 27 North, Range 1 East, of the San Bernardino Meridian, California, numbered Map #1 and dated December 2, 1999, together with 92 acre feet per annum of surface and ground water for the purposes associated with the transfer of such lands. This area shall include a 25-acre, nondevelopment zone at the north end of the area and an Adobe Restoration zone containing several historic adobe homes, which shall be managed by the Tribe as a tribal historic district.

“(B) Death Valley Junction, California, an area of approximately 1,000 acres, as generally depicted on the map entitled ‘Death Valley Junction, California’, numbered Map #2 and dated April 12, 2000, together with 15.1 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

“(C)(i) Centennial, California, an area of approximately 640 acres, as generally depicted on the map entitled ‘Centennial, California’, numbered Map #3 and dated April 12, 2000, together with an amount of ground water not to exceed 10 acre feet per annum for the purposes associated with the transfer of such lands.

“(ii) If the Secretary determines that there is insufficient ground water available on the lands described in clause (i) to satisfy the Tribe’s right to ground water to fulfill the purposes associated with the transfer of such lands, then the Tribe and the Secretary shall, within 2 years of such determination, identify approximately 640 acres of land that are administered by the Bureau of Land Management in that portion of Inyo County, California, to the north and east of the China Lake Naval Weapons Center, to be a mutually agreed upon substitute for the lands described in clause (i). If the Secretary determines that sufficient water is available to fulfill the purposes associated with the transfer of the lands described in the preceding sentence, then the Tribe shall request that the Secretary accept such lands into trust for the benefit of the Timbisha Shoshone Tribe, and the Secretary shall accept such lands, together with an amount of water not to exceed 10 acre feet per annum, into trust for the Tribe as a substitute for the lands described in clause (i).

“(D) Scotty’s Junction, Nevada, an area of approximately 2,800 acres, as generally depicted on the map entitled ‘Scotty’s Junction, Nevada’, numbered Map #4 and dated April 12, 2000, together with

375.5 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

“(E) Lida, Nevada, Community Parcel, an area of approximately 3,000 acres, as generally depicted on the map entitled ‘Lida, Nevada, Community Parcel’, numbered Map #5 and dated April 12, 2000, together with 14.7 acre feet per annum of ground water for the purposes associated with the transfer of such lands.

“(2) **WATER RIGHTS.**—The priority date of the Federal water rights described in subparagraphs (A) through (E) of paragraph (1) shall be the date of enactment of this Act [Nov. 1, 2000], and such Federal water rights shall be junior to Federal and State water rights existing on such date of enactment. Such Federal water rights shall not be subject to relinquishment, forfeiture or abandonment.

“(3) **LIMITATIONS ON FURNACE CREEK AREA DEVELOPMENT.**—

“(A) **DEVELOPMENT.**—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 described in paragraph (1), development in the area shall be limited to—

“(i) for purposes of community and residential development—

“(I) a maximum of 50 single-family residences; and

“(II) a tribal community center with space for tribal offices, recreation facilities, a multi-purpose room and kitchen, and senior and youth facilities;

“(ii) for purposes of economic development—

“(I) a small-to-moderate desert inn; and

“(II) a tribal museum and cultural center with a gift shop; and

“(iii) the infrastructure necessary to support the level of development described in clauses (i) and (ii).

“(B) **EXCEPTION.**—Notwithstanding the provisions of subparagraph (A)(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.

“(C) **RIGHT-OF-WAY.**—The Tribe shall have a right-of-way for ingress and egress on Highway 190 in California.

“(4) **LIMITATIONS ON IMPACT ON MINING CLAIMS.**—Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act [Nov. 1, 2000] on the land described in paragraph (1)(E). 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 in paragraph (1)(E). 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.

“(c) **LEGAL DESCRIPTIONS.**—Not later than 1 year after the date of enactment of this Act [Nov. 1, 2000], the Secretary shall file a legal description of the areas described in subsection (b) with the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and with the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate. Such legal description shall have the same force and effect as if the information contained in the description were included in that subsection except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in the legal description. The legal description shall be on file and available for

public inspection in the offices of the National Park Service and the Bureau of Land Management.

“(d) ADDITIONAL TRUST RESOURCES.—The Secretary may purchase from willing sellers the following parcels and appurtenant water rights, or the water rights separately, to be taken into trust for the Tribe:

“(1) Indian Rancheria Site, California, an area of approximately 120 acres, as generally depicted on the map entitled ‘Indian Rancheria Site, California’ numbered Map #6 and dated December 3, 1999.

“(2) Lida Ranch, Nevada, an area of approximately 2,340 acres, as generally depicted on the map entitled ‘Lida Ranch’ numbered Map #7 and dated April 6, 2000, or another parcel mutually agreed upon by the Secretary and the Tribe.

“(e) SPECIAL USE AREAS.—

“(1) IN GENERAL.—The areas described in this subsection shall be nonexclusive special use areas for the Tribe, subject to other Federal law. Members of the Tribe are authorized to use these areas for low impact, ecologically sustainable, traditional practices pursuant to a jointly established management plan mutually agreed upon by the Tribe, and by the National Park Service or the Bureau of Land Management, as appropriate. All maps referred to in paragraph (4) shall be on file and available for public inspection in the offices of the National Park Service and Bureau of Land Management.

“(2) RECOGNITION OF THE HISTORY AND CULTURE OF THE TRIBE.—In the special use areas, in recognition of the significant contributions the Tribe has made to the history, ecology, and culture of the Park and to ensure that the visitor experience in the Park will be enhanced by the increased and continued presence of the Tribe, the Secretary shall permit the Tribe’s continued use of Park resources for traditional tribal purposes, practices, and activities.

“(3) RESOURCE USE BY THE TRIBE.—In the special use areas, any use of Park resources by the Tribe for traditional purposes, practices, and activities shall not include the taking of wildlife and shall not be in derogation of purposes and values for which the Park was established.

“(4) SPECIFIC AREAS.—The following areas are designated special use areas pursuant to paragraph (1):

“(A) MESQUITE USE AREA.—The area generally depicted on the map entitled ‘Mesquite Use Area’ numbered Map #8 and dated April 12, 2000. The Tribe may use this area for processing mesquite using traditional plant management techniques such as thinning, pruning, harvesting, removing excess sand, and removing exotic species. The National Park Service may limit and condition, but not prohibit entirely, public use of this area or parts of this area, in consultation with the Tribe. This area shall be managed in accordance with the jointly established management plan referred to in paragraph (1).

“(B) BUFFER AREA.—An area of approximately 1,500 acres, as generally depicted on the map entitled ‘Buffer Area’ numbered Map #8 and dated April 12, 2000. The National Park Service shall restrict visitor use of this area to protect the privacy of the Tribe and to provide an opportunity for the Tribe to conduct community affairs without undue disruption from the public.

“(C) TIMBISHA SHOSHONE NATURAL AND CULTURAL PRESERVATION AREA.—An area that primarily consists of Park lands and also a small portion of Bureau of Land Management land in California, as generally depicted on the map entitled ‘Timbisha Shoshone Natural and Cultural Preservation Area’ numbered Map #9 and dated April 12, 2000.

“(5) ADDITIONAL PROVISIONS.—With respect to the Timbisha Shoshone Natural and Cultural Preservation Area designated in paragraph (4)(C)—

“(A) the Tribe may establish and maintain a tribal resource management field office, garage, and storage area, all within the area of the existing ranger station at Wildrose (existing as of the date of enactment of this Act [Nov. 1, 2000]);

“(B) the Tribe also may use traditional camps for tribal members at Wildrose and Hunter Mountain in accordance with the jointly established management plan referred to in paragraph (1);

“(C) the area shall be depicted on maps of the Park and Bureau of Land Management that are provided for general visitor use;

“(D) the National Park Service and the Bureau of Land Management shall accommodate access by the Tribe to and use by the Tribe of—

“(i) the area (including portions described in subparagraph (E)) for traditional cultural and religious activities, in a manner consistent with the purpose and intent of Public Law 95-341 (commonly known as the ‘American Indian Religious Freedom Act’) (42 U.S.C. 1996 et seq.); and

“(ii) areas designated as wilderness (including portions described in subparagraph (E)), in a manner consistent with the purpose and intent of the Wilderness Act (16 U.S.C. 1131 et seq.); and

“(E)(i) on the request of the Tribe, the National Park Service and the Bureau of Land Management shall temporarily close to the general public, 1 or more specific portions of the area in order to protect the privacy of tribal members engaging in traditional cultural and religious activities in those portions; and

“(ii) any such closure shall be made in a manner that affects the smallest practicable area for the minimum period necessary for the purposes described in clause (i).

“(f) ACCESS AND USE.—Members of the Tribe shall have the right to enter and use the Park without payment of any fee for admission into the Park.

“(g) ADMINISTRATION.—The trust lands shall constitute the Timbisha Shoshone Reservation and shall be administered pursuant to the laws and regulations applicable to other Indian trust lands, except as otherwise provided in this Act.

“SEC. 6. IMPLEMENTATION PROCESS.

“(a) GOVERNMENT-TO-GOVERNMENT AGREEMENTS.—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 Bureau of Land Management are authorized to enter into cooperative agreements with the Tribe for the purpose of providing training on the interpretation, management, protection, and preservation of the natural and cultural resources of the areas designated for special uses by the Tribe in section 5(e)(4).

“(b) STANDARDS.—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. Development in the area shall be conducted in a manner consistent with the standards, which shall be reviewed periodically and revised as necessary.

“(c) WATER MONITORING.—The Secretary and the Tribe shall develop mutually agreed upon standards for a water monitoring system to assess the effects of water use at Scotty’s Junction and at Death Valley Junction on the tribal trust lands described in subparagraphs (A), (B), and (D) of section 5(b)(1), and on the Park. Water monitoring shall be conducted in a manner that is consistent with such standards, which shall be reviewed periodically and revised as necessary.

“SEC. 7. MISCELLANEOUS PROVISIONS.

“(a) TRIBAL EMPLOYMENT.—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.

“(b) GAMING.—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.

“(c) INITIAL RESERVATION.—Lands taken into trust for the Tribe pursuant to section 5, except for the Park land described in subsections (b)(1)(A) and (d)(1) of such section, shall be considered to be the Tribe’s initial reservation for purposes of section 20(b)(1)(B)(ii) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)(ii)).

“(d) TRIBAL JURISDICTION OVER TRUST LANDS.—All trust lands that are transferred under this Act and located within California shall be exempt from section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, upon the certification by the Secretary, after consultation with the Attorney General, that the law enforcement system in place for such lands will be adequate to provide for the public safety and the public interest, except that no such certification may take effect until the expiration of the 3-year period beginning on the date of enactment of this Act [Nov. 1, 2000].

“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this Act such sums as may be necessary.”

FINDINGS AND POLICY

Section 2 of Pub. L. 103-433 provided that:

“(a) The Congress finds and declares that—

“(1) the federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

“(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

“(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

“(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

“(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 [43 U.S.C. 1781] of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

“(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

“(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

“(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

“(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

“(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

“(C) protect and preserve historical and cultural values of the California desert associated with an-

cient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

“(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

“(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.”

§ 410aaa-1. Establishment

There is hereby established the Death Valley National Park (hereinafter in this part referred to as the “park”) as generally depicted on twenty-three maps entitled “Death Valley National Park Boundary and Wilderness—Proposed”, numbered in the title one through twenty-three, and dated July 1993 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

(Pub. L. 103-433, title III, §302, Oct. 31, 1994, 108 Stat. 4485.)

§ 410aaa-2. Transfer and administration of lands

On October 31, 1994, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted in the maps described in section 410aaa-1 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System, and the boundary of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this part in accordance with the provisions of law generally applicable to units of the National Park System, including sections 1, 2, 3, and 4 of this title.

(Pub. L. 103-433, title III, §303, Oct. 31, 1994, 108 Stat. 4486.)

§ 410aaa-3. Maps and legal description

Within six months after October 31, 1994, the Secretary shall file maps and a legal description of the park designated under this part with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this part, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 410aaa-1 of this title. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior.

(Pub. L. 103-433, title III, §304, Oct. 31, 1994, 108 Stat. 4486.)