

112TH CONGRESS  
1ST SESSION

# S. 636

To provide the Quileute Indian Tribe tsunami and flood protection, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To provide the Quileute Indian Tribe tsunami and flood protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OLYMPIC NATIONAL PARK — QUILEUTE TRIBE.**

4 (a) DEFINITIONS.—In this section:

5 (1) MAP.—The term “Map” means the map en-  
6 titled “Olympic National Park and Quileute Res-  
7 ervation Boundary Adjustment Map”, numbered  
8 149/80,059, and dated June 2010.

1           (2) PARK.—The term “Park” means the Olym-  
2           pic National Park, located in the State of Wash-  
3           ington.

4           (3) RESERVATION.—The term “Reservation”  
5           means the Quileute Indian Reservation, located on  
6           the Olympic Peninsula in the State of Washington.

7           (4) SECRETARY.—The term “Secretary” means  
8           the Secretary of the Interior.

9           (5) TRIBE.—The term “Tribe” means the  
10          Quileute Indian Tribe in the State of Washington.

11         (b) FINDINGS AND PURPOSE.—

12           (1) FINDINGS.—Congress finds that—

13           (A) the Reservation is located on the west-  
14           ern coast of the Olympic Peninsula in the State  
15           of Washington, bordered by the Pacific Ocean  
16           to the west and the Park on the north, south,  
17           and east;

18           (B) most of the Reservation village of La  
19           Push is located within the coastal flood plain,  
20           with the Tribe’s administrative buildings,  
21           school, elder center, and housing all located in  
22           a tsunami zone;

23           (C) for many decades, the Tribe and the  
24           Park have had a dispute over the Reservation  
25           boundaries along the Quillayute River;

1           (D) in recent years, this dispute has inten-  
2           sified as the Tribe has faced an urgent need for  
3           additional lands for housing, schools, and other  
4           Tribe purposes outside the tsunami and  
5           Quillayute River flood zones; and

6           (E) the lack of a settlement of this dispute  
7           threatens to adversely impact the public's exist-  
8           ing and future recreational use of several at-  
9           tractions in the Park that are accessed by the  
10          public's use of Reservation lands.

11          (2) PURPOSES.—The purposes of this Act  
12          are—

13               (A) to resolve the longstanding dispute  
14               along portions of the northern boundary of the  
15               Quileute Indian Reservation;

16               (B) to clarify public use and access to  
17               Olympic National Park lands that are contig-  
18               uous to the Reservation;

19               (C) to provide the Quileute Indian Tribe  
20               with approximately 275 acres of land currently  
21               located within the Park and approximately 510  
22               acres of land along the Quillayute River, also  
23               within the Park;

1 (D) to adjust the Wilderness boundaries to  
2 provide the Quileute Indian Tribe Tsunami and  
3 flood protection;

4 (E) through the land conveyance, to grant  
5 the Tribe access to land outside of tsunami and  
6 Quillayute River flood zones, and link existing  
7 Reservation land with Tribe land to the east of  
8 the Park; and

9 (F) to add 4,100 acres of Wilderness to  
10 the Park.

11 (c) DESIGNATION OF ADDITIONAL NATIONAL PARK  
12 SYSTEM LAND IN OLYMPIC NATIONAL PARK AS WILDER-  
13 NESS OR POTENTIAL WILDERNESS.—

14 (1) DESIGNATION.—In accordance with the  
15 Wilderness Act (16 U.S.C. 1131 et seq.), the fol-  
16 lowing lands within Olympic National Park in the  
17 State of Washington are designated as wilderness or  
18 potential wilderness and incorporated in the Olympic  
19 Wilderness designated by section 101(a) of Public  
20 Law 100–668 (102 Stat. 3961):

21 (A) Certain Federal land comprising ap-  
22 proximately 4,100 acres as generally depicted  
23 on the Map entitled “Wilderness Boundary —  
24 Lake Crescent Addition, Olympic National  
25 Park, Washington”, numbered 149/60,471a,

1 and dated May 2010, is hereby designated as  
2 wilderness. The boundary along Lake Crescent  
3 shall be set back a sufficient distance to allow  
4 management of the historic World War I  
5 Spruce Railroad grade as the Olympic Dis-  
6 covery Trail, and to allow for operation and  
7 maintenance of the existing county road. The  
8 World War II Pyramid Peak lookout shall be  
9 included in the wilderness and be managed and  
10 maintained as a historic structure.

11 (B) Certain Federal land comprising ap-  
12 proximately 11 acres as generally depicted on  
13 the Map entitled “Wilderness Boundary —  
14 Boulder Creek Addition, Olympic National  
15 Park, Washington”, numbered 149/60,470, and  
16 dated May 2009, is hereby designated as a po-  
17 tential wilderness addition.

18 (2) MANAGEMENT.—Except as provided in  
19 paragraph (3), and subject to valid existing rights,  
20 the Secretary shall manage each area designated as  
21 wilderness or potential wilderness in accordance with  
22 the Wilderness Act (16 U.S.C. 1131 et seq.), except  
23 that any reference in the Wilderness Act to the ef-  
24 fective date of the Wilderness Act shall be consid-

1       ered to be a reference to the date of enactment of  
2       this Act.

3           (3) ECOLOGICAL RESTORATION.—For purposes  
4       of ecological restoration (including the elimination of  
5       nonnative species, removal of decommissioned roads,  
6       and any other activity necessary to restore the nat-  
7       ural ecosystems in the potential wilderness area) and  
8       construction of a foot/stock trail, the Secretary may  
9       use motorized equipment and mechanized transport  
10      in the potential wilderness area until the date on  
11      which the potential wilderness area is incorporated  
12      into the Olympic Wilderness, whereupon wilderness  
13      minimum requirement practices shall be imple-  
14      mented in accordance with the Wilderness Act.

15           (4) BOULDER CREEK ADDITION WILDERNESS  
16      DESIGNATION.—The Boulder Creek Addition, con-  
17      sisting of the Boulder Creek Trail and the Boulder  
18      Creek campground potential wilderness area, ap-  
19      proximately 15 acres as shown on the Map titled  
20      “Wilderness Boundary — Boulder Creek Addition,  
21      Olympic National Park, Washington”, numbered  
22      149/60,470, and dated May 2009, shall be des-  
23      ignated as wilderness and incorporated in the Olym-  
24      pic Wilderness on the date on which the Secretary  
25      publishes notice in the Federal Register that condi-

1 tions in the potential wilderness areas that are in-  
2 compatible with the Wilderness Act (16 U.S.C. 1131  
3 et seq.) have been removed.

4 (5) MAP AND LEGAL DESCRIPTION.—

5 (A) SUBMISSION OF MAP AND LEGAL DE-  
6 SCRIPTION.—As soon as practicable, after the  
7 date of enactment of this section, the Secretary  
8 shall file a map and legal description of each  
9 area designated as wilderness and potential wil-  
10 derness by this subtitle with—

11 (i) the Senate Committee on Energy  
12 and Natural Resources; and

13 (ii) the House Committee on Natural  
14 Resources.

15 (B) FORCE AND EFFECT.—The map and  
16 legal description filed under subparagraph (A)  
17 shall have the same force and effect as if in-  
18 cluded in this subtitle, except that the Secretary  
19 may correct any clerical or typographical errors  
20 in the map or legal description.

21 (C) PUBLIC AVAILABILITY.—The map and  
22 legal description filed under subparagraph (A)  
23 shall be on file and available for public inspec-  
24 tion in the Office of the Secretary.

1 (d) REDESIGNATION OF FEDERAL WILDERNESS  
2 LAND, OLYMPIC NATIONAL PARK CONVEYANCE.—

3 (1) REDESIGNATION OF WILDERNESS.—Certain  
4 Federal land in the Park that was designated as  
5 part of the Olympic Wilderness under title I of the  
6 Washington Park Wilderness Act of 1988 (Public  
7 Law 100–668; 102 Stat. 3961; 16 U.S.C. 1132  
8 note) and comprises approximately 222 acres, as  
9 generally depicted on the Map is hereby no longer  
10 designated as wilderness, and is no longer a compo-  
11 nent of the National Wilderness Preservation Sys-  
12 tem under the Wilderness Act (16 U.S.C. 1131 et  
13 seq.).

14 (2) LANDS TO BE HELD IN TRUST.—All right,  
15 title, and interest of the United States in and to the  
16 approximately 510 acres generally depicted on the  
17 Map as “Northern Lands”, and the approximately  
18 275 acres generally depicted on the Map as “South-  
19 ern Lands”, are declared to be held in trust by the  
20 United States for the benefit of the Tribe without  
21 any further action by the Secretary.

22 (3) BOUNDARY ADJUSTMENT; SURVEY.—The  
23 Secretary shall—

24 (A) adjust the boundaries of Olympic Wil-  
25 derness and the Park to reflect the change in



1 status of Federal lands under paragraph (2);  
2 and

3 (B) as soon as practicable after the date of  
4 enactment of this section, conduct a survey, de-  
5 fining the boundaries of the Reservation and  
6 Park, and of the Federal lands taken into and  
7 held in trust that are adjacent to the north and  
8 south bank of the Quillayute River as depicted  
9 on the Map as “Northern Lands”.

10 (4) LAW APPLICABLE TO CERTAIN LAND.—The  
11 land taken into trust under this subsection shall not  
12 be subject to any requirements for valuation, ap-  
13 praisal, or equalization under any Federal law.

14 (e) NON-FEDERAL LAND CONVEYANCE.—Upon com-  
15 pletion and acceptance of an environmental hazard assess-  
16 ment, the Secretary shall take into trust for the benefit  
17 of the Tribe certain non-Federal land owned by the Tribe,  
18 consisting of approximately 184 acres, as depicted on the  
19 Map as “Eastern Lands”, such non-Federal land shall be  
20 designated as part of the Reservation.

21 (f) MAP REQUIREMENTS.—

22 (1) AVAILABILITY OF INITIAL MAP.—The Sec-  
23 retary shall make the Map available for public in-  
24 spection in appropriate offices of the National Park  
25 Service. The Map shall also depict any non-Federal

1 land currently owned by the Tribe which is being  
2 placed in trust under this section.

3 (2) REVISED MAP.—Not later than one year  
4 after the date of the land transaction in subsections  
5 (d) and (e), the Secretary shall submit to the Com-  
6 mittee on Energy and Natural Resources of the Sen-  
7 ate and Committee on Natural Resources of the  
8 House of Representatives a revised map that de-  
9 picts—

10 (A) the Federal and non-Federal land  
11 taken into trust under this section and the Sec-  
12 ond Beach Trail; and

13 (B) the actual boundaries of the Park as  
14 modified by the land conveyance.

15 (g) JURISDICTION.—The land conveyed to the Tribe  
16 by this section shall be designated as part of the Quileute  
17 Reservation and placed in the following jurisdictions:

18 (1) TRUST LAND.—The same Federal, State,  
19 and Tribe jurisdiction as on all other trust lands  
20 within the Reservation, so long as the exercise of  
21 such jurisdiction does not conflict with the terms of  
22 the easement described in subsection (h) below.

23 (2) TRIBE JURISDICTION.—Park visitors shall  
24 remain subject to the jurisdiction of the Tribe while  
25 on the Second Beach parking lot, on those portions

1 of the Second Beach Trail on the Reservation, and  
2 Rialto Spit, to the same extent that such visitors are  
3 subject to the Tribe's jurisdiction elsewhere on the  
4 Reservation.

5 (h) GRANT OF EASEMENT IN CONNECTION WITH  
6 LAND CONVEYANCE.—

7 (1) EASEMENT REQUIRED.—The conveyances  
8 under subsection (d)(2) shall be subject to the condi-  
9 tions described in this subsection.

10 (2) REQUIRED RIGHTS UNDER EASEMENT.—  
11 Any easement granted under this subsection must  
12 contain the following express terms:

13 (A) NO IMPACT ON EXISTING RIGHTS.—An  
14 easement shall not limit the Tribe's treaty  
15 rights or other existing rights.

16 (B) RETENTION OF RIGHTS.—The Tribe  
17 retains the right to enforce its rules against  
18 visitors for disorderly conduct, drug and alcohol  
19 use, use or possession of firearms, and other  
20 disruptive behaviors.

21 (C) MONITORING OF EASEMENT CONDI-  
22 TIONS.—The Park has the right, with prior no-  
23 tice to the Tribe, to access lands conveyed to  
24 the Tribe for purposes of monitoring compli-

1           ance with any easement made under this sub-  
2           section.

3           (3) EXEMPTION FOR SUBSECTION (e) LAND.—

4           The non-Federal land owned by the Tribe and being  
5           placed into trust by the Secretary in accordance with  
6           subsection (e) shall not be included in, or subject to,  
7           any easement or condition specified in this sub-  
8           section.

9           (4) REQUIRED TERMS AND CONDITIONS.—The  
10          following specified land areas shall be subject to the  
11          following easement conditions:

12          (A) CONDITIONS ON NORTHERN LAND.—

13          Certain land that will be added to the northern  
14          boundary of the Reservation by the land con-  
15          veyance, from Rialto Beach to the east line of  
16          Section 23, shall be subject to an easement,  
17          which shall contain the following requirements:

18                 (i) The Tribe may lease or encumber  
19                 the land, consistent with their status as  
20                 trust lands, provided that the Tribe ex-  
21                 pressly subjects the conveyance or author-  
22                 ized use to the terms of the easement.

23                 (ii) The Tribe may place temporary,  
24                 seasonal camps on the land, but shall not  
25                 place or construct commercial residential,

1 industrial, or other permanent buildings or  
2 structures.

3 (iii) Roads on the land on the date of  
4 enactment of this Act may be maintained  
5 or improved, but no major improvements  
6 or road construction may occur, and any  
7 road improvements, temporary camps, or  
8 other uses of these lands shall not interfere  
9 with its use as a natural wildlife corridor.

10 (iv) The Tribe may authorize Tribe  
11 members and third parties to engage in  
12 recreational, ceremonial, or treaty uses of  
13 the land provided that the Tribe adopts  
14 and enforces regulations permanently pro-  
15 hibiting the use of firearms in the Thunder  
16 Field area, and any areas south of the  
17 Quillayute River as depicted on the Map.

18 (v) The Tribe may exercise its sov-  
19 ereign right to fish and gather along the  
20 Quillayute River in the Thunder Field  
21 area.

22 (vi) The Tribe may, consistent with  
23 any applicable Federal law, engage in ac-  
24 tivities reasonably related to the restora-  
25 tion and protection of the Quillayute River

1 and its tributaries and streams, weed con-  
2 trol, fish and wildlife habitat improvement,  
3 Quillayute River or streambank stabiliza-  
4 tion, and flood control. The Tribe and the  
5 Park shall conduct joint planning and co-  
6 ordination for Quillayute River restoration  
7 projects, including streambank stabilization  
8 and flood control.

9 (vii) Park officials and visitors shall  
10 have access to engage in activities along  
11 and in the Quillayute River and Dickey  
12 River that are consistent with past rec-  
13 reational uses, and the Tribe shall allow  
14 the public to use and access the Dickey  
15 River, and Quillayute River along the  
16 north bank, regardless of future changes in  
17 the Quillayute River or Dickey River align-  
18 ment.

19 (viii) Park officials and visitors shall  
20 have access to, and shall be allowed to en-  
21 gage in, activities on Tribal lands at Rialto  
22 Spit that are consistent with past rec-  
23 reational uses, and the Tribe shall have ac-  
24 cess to Park lands at Rialto Beach so that

1           the Tribe may access and use the jetty at  
2           Rialto Beach.

3           (B) CONDITIONS ON SECOND BEACH TRAIL  
4           AND ACCESS.—Certain Quileute Reservation  
5           land along the boundary between the Park and  
6           the southern portion of the Reservation, encom-  
7           passing the Second Beach trailhead, parking  
8           area, and Second Beach Trail, shall be subject  
9           to a conservation and management easement,  
10          as well as any other necessary agreements,  
11          which shall implement the following provisions:

12                 (i) The Tribe shall allow Park officials  
13                 and visitors to park motor vehicles at the  
14                 Trail parking area existing on the date of  
15                 enactment of this Act and to access the  
16                 portion of the Trail located on Tribal  
17                 lands, and the Park shall be responsible  
18                 for the costs of maintaining existing park-  
19                 ing access to the Trail.

20                 (ii) The Tribe shall grant Park offi-  
21                 cials and visitors the right to peacefully  
22                 use and maintain the portion of the Trail  
23                 that is on Tribal lands, and the Park shall  
24                 be responsible for maintaining the Trail  
25                 and shall seek advance written approval

1 from the Tribe before undertaking any  
2 major Trail repairs.

3 (iii) The Park officials and the Tribe  
4 shall conduct joint planning and coordina-  
5 tion regarding any proposed relocation of  
6 the Second Beach trailhead, the parking  
7 lot, or other portions of the Trail.

8 (iv) The Tribe shall avoid altering the  
9 forested landscape of the Tribe-owned  
10 headlands between First and Second  
11 Beach in a manner that would adversely  
12 impact or diminish the aesthetic and nat-  
13 ural experience of users of the Trail.

14 (v) The Tribe shall reserve the right  
15 to make improvements or undertake activi-  
16 ties at the Second Beach headlands that  
17 are reasonably related to enhancing fish  
18 habitat, improving or maintaining the  
19 Tribe's hatchery program, or alterations  
20 that are reasonably related to the protec-  
21 tion of the health and safety of Tribe  
22 members and the general public.

23 (vi) The Park officials, after consulta-  
24 tion with the Tribe, may remove hazardous  
25 or fallen trees on the Tribal-owned Second



1 Beach headlands to the extent necessary to  
2 clear or safeguard the Trail, provided that  
3 such trees are not removed from Tribal  
4 lands.

5 (vii) The Park officials and the Tribe  
6 shall negotiate an agreement for the de-  
7 sign, location, construction, and mainte-  
8 nance of a gathering structure in the Sec-  
9 ond Beach headlands overlook for the ben-  
10 efit of Park visitors and the Tribe, if such  
11 a structure is proposed to be built.

12 (C) SOUTHERN LANDS EXEMPT.—All other  
13 land conveyed to the Tribe along the southern  
14 boundary of the Reservation under this section  
15 shall not be subject to any easements or condi-  
16 tions, and the natural conditions of such land  
17 may be altered to allow for the relocation of  
18 Tribe members and structures outside the tsu-  
19 nami and Quillayute River flood zones.

20 (D) PROTECTION OF INFRASTRUCTURE.—  
21 Nothing in this Act is intended to require the  
22 modification of the parklands and resources ad-  
23 jacent to the transferred Federal lands. The  
24 Tribe shall be responsible for developing its  
25 lands in a manner that reasonably protects its

1 property and facilities from adjacent parklands  
 2 by locating buildings and facilities an adequate  
 3 distance from parklands to prevent damage to  
 4 these facilities from such threats as hazardous  
 5 trees and wildfire.

6 (i) EFFECT OF LAND CONVEYANCE ON CLAIMS.—

7 (1) CLAIMS EXTINGUISHED.—Upon the date of  
 8 the land conveyances under subsections (d) and (e)  
 9 and the placement of conveyed lands into trust for  
 10 the benefit of the Tribe, any claims of the Tribe  
 11 against the United States, the Secretary, or the  
 12 Park relating to the Park's past or present owner-  
 13 ship, entry, use, surveys, or other activities are  
 14 deemed fully satisfied and extinguished upon a for-  
 15 mal Tribal Council resolution, including claims re-  
 16 lated to the following:

17 (A) LAND ALONG QUILLAYUTE RIVER.—

18 The lands along the sections of the Quillayute  
 19 River, starting east of the existing Rialto Beach  
 20 parking lot to the east line of Section 22.

21 (B) SECOND BEACH.—The portions of the  
 22 Federal or Tribal lands near Second Beach.

23 (C) SOUTHERN BOUNDARY PORTIONS.—

24 Portions of the Federal or Tribal lands on the  
 25 southern boundary of the Reservation.

1           (2) RIALTO BEACH.—Nothing in this section  
2           shall create or extinguish claims of the Tribe relat-  
3           ing to Rialto Beach.

○