



USET

SOVEREIGNTY PROTECTION FUND

Washington, DC Office
1730 Rhode Island Ave., NW, Suite 909
Washington, DC 20036

Nashville, TN Office
711 Stewarts Ferry Pike
Nashville, TN 37214
P: 615-872-7900 | F: 615-872-7417

Transmitted Electronically

August 20, 2026

The Honorable John Thune
Senate Majority Leader

The Honorable Charles Schumer
Senate Minority Leader

The Honorable Roger Wicker
Chair
Senate Armed Services Committee

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee

The Honorable Mike Lee
Chair
Senate Energy and Natural Resources Committee

The Honorable Martin Heinrich
Ranking Member
Senate Energy and Natural Resources Committee

The Honorable Lisa Murkowski
Chair
Senate Indian Affairs Committee

The Honorable Brian Schatz
Vice Chair
Senate Indian Affairs Committee

Re: Opposition to Section 1091(b), in Subtitle G, Title X, of S. 4784, FY27 NDAA

Dear Senators:

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we respectfully request that you strike Section 1091(b), Subtitle G, Title X, from S. 4784, the National Defense Authorization Act for Fiscal Year 2027 (NDAA). USET SPF strongly opposes the inclusion in the NDAA of this special-interest provision for J.R. Simplot Company (Simplot), which would abrogate the treaty rights of the Shoshone-Bannock Tribes by ratifying an illegal land exchange that would allow Simplot to expand its Superfund site—a site that has been listed on the Environmental Protection Agency's National Priority List since 1990. Enactment of Section 1091(b) would facilitate Simplot's expansion of the Superfund site to dump additional radioactive and other hazardous waste that contaminates Tribal lands and harms Tribal communities.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Turtle Island.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and to assisting its membership in dealing effectively with public policy issues.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Tribe (VA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

Under Article VI of the U.S. Constitution, treaties are the “supreme law of the land” and an integral expression of the government-to-government diplomatic relationship between Tribal Nations and the United States. In 1868, the Shoshone-Bannock Tribes and the United States signed the Fort Bridger Treaty (Treaty), which the Senate ratified in 1869. This Treaty was part of the United States’ “Great Peace Commission” policy in 1868–69 that aimed to use treaties to force Tribal Nations to give up ancestral lands. Under the Treaty, the Shoshone-Bannock Tribes agreed to settle on the Fort Hall Reservation in southeastern Idaho as their “permanent home,” but they reserved rights in the public domain.

Subsequently, the United States “negotiated” the surrender of more Shoshone-Bannock lands, resulting in an 1898 cession agreement (1898 Agreement) in which the Shoshone-Bannock Tribes ceded a significant portion of the Fort Hall Reservation (Ceded Lands). However, they continued to retain Treaty rights on those lands, including the rights “to cut timber for their own use, but not for sale, and to pasture their live stock on said public lands, and to hunt thereon and to fish in the streams thereof.” 1898 Agreement art. IV. Congress ratified and enacted this agreement into law in 1900 (1900 Act). The 1900 Act also restricted the means by which the Ceded Lands could be conveyed in future, consisting of specific laws governing homesteading and townsites, stone and timber, and mining.

Section 1091(b) of the Senate NDAA aims to greenlight the U.S. Bureau of Land Management’s (BLM) approval of a land exchange that would transfer over 713 acres of Ceded Lands protected by the 1898 Agreement and the 1900 Act to Simplot, despite federal court decisions finding the land exchange to be illegal. In *Shoshone-Bannock Tribes v. DOI*, 153 F.4th 748 (9th Cir. 2025), the U.S. Court of Appeals for the Ninth Circuit affirmed a ruling in favor of the Shoshone-Bannock Tribes, holding that the BLM’s approval of this land exchange violated the Administrative Procedure Act because it did not comply with the 1900 Act’s restrictions. In particular, the court held that the Federal Land Policy and Management Act—under which the BLM had purported to authorize the land exchange—does not repeal or supersede the 1900 Act.

The effect of Section 1091(b), if enacted, would be to abrogate the federal government’s trust and treaty obligations to the Shoshone-Bannock Tribes and circumvent the court rulings that have consistently upheld the Tribes’ established Treaty rights. Moreover, there has been no process, debate, or deliberation in the Senate committee of jurisdiction—the Senate Energy and Natural Resources Committee—over the inclusion of Section 1091(b), much less any Tribal consultation. Instead, Simplot, through its allies, has deliberately snuck a vaguely worded provision into a 1,561-page bill to minimize transparency and public scrutiny, with only a reference to a land patent number to identify the provision’s subject matter.

Section 1091(b) of the Senate NDAA is a direct attack on inherent Tribal sovereignty and an affront to the federal government’s trust and treaty obligations. For these reasons, USET SPF is alarmed that the Senate NDAA currently contains Section 1091(b) and we urge you to honor and uphold the federal government’s trust and treaty obligations to the Shoshone-Bannock Tribes by striking it from the NDAA bill. We appreciate your careful consideration of this request and anticipate the removal of Section 1091(b) from the Senate NDAA.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director