SUPPLEMENTAL STATEMENT FOR THE RECORD
OF JOSEPH RUPNICK, CHAIRMAN
PRAIRIE BAND POTAWATOMI NATION

THE U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS
HEARING ON "UNLOCKING INDIAN COUNTRY'S ECONOMIC POTENTIAL"

MARCH 15, 2023

Dear Chair Hageman, Ranking Member Leger-Fernandez, and Subcommittee Members:

Thank you for the opportunity to testify before the Subcommittee on March 1, 2023. I was honored to share my thoughts with the Subcommittee on "Unlocking Indian Country's Economic Potential," particularly as it relates to the ownership and use of tribal lands for economic development. This supplemental statement expands upon my remarks for inclusion in the hearing record.

As the Chairman of the Prairie Band Potawatomi Nation, I represent approximately 4,500 Potawatomi people, most of whom live on our reservation in Kansas, defined by our 1846 Treaty with the United States Government. Originally, our people owned and resided on lands in northern Illinois, but we were subject to removal treaties in 1829 and 1833 that relinquished all but 1,280 acres of that land. Our 1846 treaty established a 900-square-mile reservation for us in Kansas, but development pressure, the federal government's land allotment policies, and outright theft resulted in most of our land being lost to non-Indians. Just a few decades ago, our Nation owned less than 5% of the land originally promised to us.

Today, lands within our reservation are heavily "checkerboarded," meaning that there are mixed parcels of land within the reservation owned by our Nation, individual Nation citizens, and non-Indians. And because the status of the land differs based on ownership, so too does the jurisdiction and taxing authority of the tribal, federal, state, and county governments. Frankly, what the government has done to us and our lands has created a mess.

This mess is compounded by the fact that the lands we have retained are considered "trust lands"- owned by and under the federal government's jurisdiction. In my view, the idea of "trust

land" is not normal and should be fixed to recognize that our Nation owns our lands within our treaty-defined reservations and is subject to our primary jurisdiction. The federal government's role should be to protect our lands against the sale and external taxation and regulation, not management and interference with our Tribal government's land use decisions.

Perhaps the most glaring defect of trust land status is how it interferes with economic development activities we wish to pursue in support of our people. For example, in recent years, we have sought to expand a retail shopping plaza with a convenience store to support our Class III gaming facility. We acquired the land in fee from non-Indian sellers. We had to apply to the Bureau of Indian Affairs to have the land taken into trust, which took 14 years. We had to undergo excessive environmental review because the land is now considered to be in trust status. The utility service takes time to hook up because of the federal regulations governing rights of way on trust land. We started this project 22 years ago, but it is still unfinished. Nowhere in America other than Indian Country does this kind of bureaucratic stranglehold occur.

To remedy this situation, I recommend that the Subcommittee consider three different legislative actions to improve the use of tribal lands.

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First, Congress should enact legislation to allow for any Indian nation at its own choosing to acquire lands under its jurisdiction in restricted fee status. Restricted fee status is a long-established form of tribal landownership similar to trust status, but the land is considered owned by and under the jurisdiction of the Indian nation, not the federal government.

The late Don Young, the former Dean of the House, supported sovereignty for tribal governments to own our lands and exercise jurisdiction over them within our reservations. He developed legislation, the "Native American Land Empowerment Act," that he introduced in the 112th and subsequent Congresses to allow for Indian nations to acquire restricted fee lands within our existing reservations.[1] He proposed a 90-day process that land acquired by a tribe in fee within its reservation would automatically be converted to restrict fee status under its ownership and jurisdiction.

Enactment of this legislation would create an alternative process to the current fee-to-trust process. All tribal nations could save time and money and strengthen our ability to engage in economic development within our reservations if we had this tool at our disposal. Some tribes may not like the idea and would prefer to have their lands held in trust, which is their right. But for nations that want greater control over our land use from the federal government, we should have that opportunity.

What is restricted fee land status? Trust lands are considered owned by the United States government for the benefit and occupancy of a particular Indian tribe. Restricted fee lands are recognized as owned by the Tribal nation itself, subject to a restriction against alienation and

[1] *See e.g.* H.R. 8931, 115th Cong. At https://www.congress.gov/116/bills/hr8951/BILLS-116hr8951ih.pdf.

taxation imposed by federal law.[2] Restricted fee lands are managed by a Tribal nation, not the federal government.

What would the Land Empowerment Act do if enacted? The Act would allow any federally-recognized Indian nation or tribe, at its choice, to convert any or all of their trust lands or tribally-owned fee lands within its reservation to restricted fee status by giving notice to the Secretary of the Interior. If the Secretary failed to act on the tribe's request within 90 days, the land would automatically convert to restricted fee status.

Do restricted fee lands have Indian Country status? Yes. Both trust land and restricted fee lands are "Indian Country."[3] are subject to tribal and federal jurisdiction,[4] and are immune from state regulation and taxation.[5]

Is restricted fee land more at risk of state jurisdiction or taxation*?* No. Restricted fee land is Indian Country under federal law and is the equivalent of trust land for jurisdictional purposes.[6]

If the Land Empowerment Act is enacted, would it reflect a major change in federal law? No. The Act is consistent with recent Congressional action to respect tribal sovereignty over land use to maximize economic development potential. In 2012, Congress enacted the HEARTH Act to amend the Long-Term Leasing Act of 1955 to establish a procedure for tribal governments to gain greater control over leasing trust lands for a 75-year period.[7] Congress has also regularly enacted piecemeal legislation to allow tribes to lease land for 99 years, as discussed further below. And the Indian Trust Asset Reform Act of 2016 allows for tribes to fully manage their trust land resources.[8] The Land Empowerment Act would streamline this process even further.

What would be the effect of the Land Empowerment Act on tribal self-government and economic growth? The Act would restore tribal land ownership to lease and regulate our own lands to promote tribal economic development without federal government management. It would not change any existing federal law relating to gaming development. But it would be an important step towards streamlining tribal land use for economic development and thereby strengthening tribal sovereignty by providing more flexibility and more options for economic growth.

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[2] *See* 25 U.S.C. § 177; 25 C.F.R. § 151.2(e).
[3] "Indian Country" includes "reservations," "dependent Indian communities," and "allotments ."*See* 18 U.S.C. § 1151. Tribal nations owning lands in restricted fee status are Indian Country. *See U.S. v. Sandoval*, 231 U.S. 28 (1913) (Pueblos); *Indian Country U.S.A., Inc. v. State of Oklahoma*, 829 F.2d 937 (10th Cir. 1987) (Creek Nation).
[4] fee lands that pass into trust status or restricted fee status are subject to tribal jurisdiction. *See Citizens Against Casino Gambling in Erie County v. Chauduri*, (2nd Cir. 2014), at 55-57.
[5] *See Citizens Against Casino Gambling in Erie County v. Hogen*, (W.D.N.Y., Jul. 8, 2008) at 69 ("Congress has treated trust land and restricted fee land as jurisdictional equivalents in a number of Indian statutes of general applicability.").
[6] *See* CACGEC, *supra* at 70 ("[W]here land is held in trust or is subject to a restriction against alienation imposed by law, a state is without jurisdiction over the land except as permitted by the federal government.").
[7] *See* 25 U.S.C. § 415.
[8] *See* 25 U.S.C. § 5601 *et seq.*

Would the Land Empowerment Act affect the federal government's funding obligation to Tribes? No. The federal trust responsibility and federal funding are independent of whether a Tribal nation occupies trust land or owns restricted fee land. The Act expressly preserves the federal government's trust obligation to protect the Tribe and its lands.

Would the Land Empowerment Act affect the status of trust allotments? No, not without the consent of the allottee.

Could restricted fee lands revert to trust status under the Act if originally converted to restricted fee status? Yes, however, the federal government would not be held responsible for any implications of land use while it was owned by the Tribe in restricted fee status.

Is there a precedent for restricted fee land ownership in Indian Country? Yes, the federal government and federal law has recognized restricted fee land status since 1790 under the Nonintercourse Act. The Six Nations of the *Haudenosaunee* (Iroquois) located in New York State retain aboriginal title to their lands, which are considered owned in restricted fee status. Restricted fee land exists in other parts of Indian Country as well (e.g. Oklahoma, New Mexico).

Has Congress previously acted to allow for the creation of restricted fee lands? Yes, on two recent occasions Congress has established a process for Tribal nations to acquire restricted fee lands.

In 1990, Congress enacted the Seneca Nation Settlement Act, which allows the Seneca Nation of Indians to utilize settlement funds appropriated under the Act to acquire restricted fee land within its aboriginal territory in Western New York State.[9] Upon the use of Settlement Act funds to acquire land in fee simple status, the Act allows the Seneca Nation to give notice to the Secretary of the Interior and affected local governments of its acquisition. Within 60 days of said notice, the land is automatically converted to restricted fee status and is considered Indian Country under the Nation's jurisdiction.

In 2016, Congress enacted the "Return of Certain Lands at Fort Wingate to The Original Inhabitants Act" for the benefit of the Zuni Tribe and Navajo Nation.[10] This law transferred former Fort Wingate military land back to these two Tribal nations in trust status but allowed them to convert the lands to restricted fee status at their discretion.

If the Land Empowerment Act is enacted, will it be mandatory for Tribal governments? No. The decision to convert trust lands into restricted fee status is a choice. The National Congress of American Indians, Affiliated Tribes of Northwest Indians, and the United South and Eastern Tribes have each adopted resolutions supporting the right of tribal governments to have the choice to acquire lands in restricted fee status (attached).

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[9] *See* Pub. L. 101-503, 104 Stat. 1292, Nov. 3, 1990 (https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg1292.pdf).
[10] *See* Cong. Rec. H2735-H2737, May 18, 2016 (attached).

In addition to establishing a new legal process for acquiring lands in restricted fee status, I recommend two other critical legislative changes to expand Tribal government authority to better utilize our lands for economic development purposes.

Congress should recognize that all Tribal governments have authority to lease trust lands for up to 99 years. Right now, Indian nations are limited in our ability to lease our lands without federal approval. In 2012, Congress took a major step forward when it enacted the HEARTH Act to amend the Indian Long-Term Leasing Act of 1955 to allow for the leasing of trust or restricted lands of up to 75 years. But, to regain that inherent authority, a tribe must first ask permission and secure approval from the federal government to exercise that authority. And to get that approval, a Tribe's laws must have a variety of restrictions and controls governing land use that are nearly as burdensome as the federal government's own regulations.

In true fashion, the federal government acted in a manner that looks like it is respecting tribal sovereignty but loads up the process with so many other restrictions that you have to wonder whether it's really worth it.

Congress should simply fix this situation by enacting legislation that allows any Indian nation that wants the authority to lease its trust lands for 99 years to do so. Again, if a Tribe wants to utilize the existing legal regime, that is their choice. But if other Tribal nations like ours want a streamlined process, the federal government should just get out of the way.

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Lastly, Congress should clarify that the Nonintercourse Act does not apply to the purchase and sale of Tribally-owned fee lands. This Act, one of the first pieces of legislation enacted by Congress in 1790, serves an important function in protecting the sale and alienation of Indian trust or restricted fee lands. But it should not apply to land transactions involving the purchase and sale of fee lands. Many Tribal governments, including ours, are interested in expanding our economic opportunities into real estate development, but any future sale of such land could be stopped because of a restrictive interpretation of the Nonintercourse Act. The Nonintercourse Act is important legislation that should remain in place. However, it should not be interpreted to interfere with the sale of Tribally-owned fee land within our outside of reservation boundaries.

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In conclusion, I want to thank you again, Madam Chair and Subcommittee members, for the opportunity to submit this supplemental testimony. For 50 years, the official policy of Congress has been to support tribal sovereignty and self-determination. More must be done to make this a reality regarding the use of tribal lands to support the economic self-sufficiency of sovereign Tribal nations.

Respectfully submitted,

Joseph Rupnick, Chairman
Prairie Band Potawatomi Nation

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116TH CONGRESS
2D SESSION

H. R. 8951

To empower federally recognized Indian Tribes with the option to designate restricted fee Tribal lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 10, 2020

Mr. YOUNG (for himself and Mr. COLE) introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

To empower federally recognized Indian Tribes with the option to designate restricted fee Tribal lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Land Empowerment Act of 2020''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian Tribe'' means a federally recognized Indian Tribe.

(2) RESTRICTED FEE STATUS.—The term ''restricted fee status'' means—

(A) owned in fee by the Indian Tribe by aboriginal title or conveyance;

(B) part of the Indian Tribe's reservation and subject to its jurisdiction, or if the Indian Tribe does not have a reservation, is located within the census-designated place in which the Indian Tribe is headquartered as of the date of enactment of this Act;

(C) held by the Indian Tribe subject to a restriction against alienation and taxation and thus may not be sold by the Indian Tribe without the consent of Congress (25 U.S.C. 177);

(D) not subject to taxation by a State or local government other than the government of the Indian Tribe, including any activities occurring on the land;

(E) not subject to any provision of law providing for the review or approval by the Secretary before the Indian Tribe may use the land for any purpose, directly or through agreement with another party; and

(F) not considered as Federal public lands for any purpose, nor subject to any provision of

law providing for the review or approval by the Secretary before the Indian Tribe may use the land for any purpose, directly or through agreement with another party.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. TRIBAL OPTION TO DESIGNATE RESTRICTED FEE TRIBAL LANDS.

(a) CONVERSION OF TRIBAL TRUST OR FEE LANDS TO RESTRICTED FEE LAND STATUS.—Notwithstanding any other provision of law, not later than 90 days after receipt by the Secretary of a written request adopted by the governing body of an Indian Tribe, the Secretary shall—

(1) convey to the Indian Tribe, subject to a restriction imposed by the United States against alienation and taxation, all right, title, and interest held by the United States in land specifically requested by the Indian Tribe which the United States holds in trust for that Indian Tribe; or

(2) in the case of land owned in fee by an Indian Tribe and located within the Indian Tribe's reservation or, if the Indian Tribe does not have a reservation, located within the census-designated place in which the Indian Tribe is headquartered as of the

date of enactment of this Act, designate such lands as subject to a restriction imposed by the United States against alienation and taxation.

(b) FEE TO RESTRICTED FEE PROCESS.—If the Secretary has not rendered a decision within 90 days of receipt of the Indian Tribe's request to convert trust or eligible fee land, the request shall be deemed approved and the land shall automatically be considered as owned by the Indian Tribe in restricted fee status.

(c) LAND MANAGEMENT.—

(1) WRITTEN REQUEST.—An Indian Tribe that submits a written request for the Secretary to convey trust land or eligible fee land under this section to restricted fee status shall specify in the request that either—

(A) the Indian Tribe has elected for the Secretary to have responsibility for managing land use; or

(B) the Indian Tribe has elected for the Secretary to recognize the Indian Tribe's responsibility for managing land use.

(2) TRANSFER.—If the Indian Tribe elects to manage land use, the Secretary shall transfer any Federal land management responsibilities to the In-

dian Tribe upon conveyance of the restricted fee status.

(d) OPTION TO RESTORE TRUST STATUS.—An Indian Tribe that obtains restricted fee status to lands by converting trust lands in accordance with this section may restore the trust status of the land at its option on an expedited basis. Notwithstanding any other provision of law, not later than 90 days after receipt by the Secretary of a written status restoration request adopted by the governing body of an Indian Tribe that received a conveyance of land under this section, the Secretary shall take the land into trust for that Indian Tribe. The Secretary's trust obligations with regard to the land—

(1) shall reflect the Secretary's trust obligations when the land was previously in trust;

(2) shall not be expanded based on any modifications, changes, or contamination on the land that occurred while the land was not in trust; and

(3) may be reassumed by the Secretary based on circumstances that occur after the land is returned to trust.

(e) LIABILITY LIMITATION.—The Federal Government shall not be subject to liability arising from modifications, changes, or contamination on land returned to trust

under subsection (d) that occurred while the land was not in trust.

(f) ALLOTMENTS NOT AFFECTED.—This Act shall be inapplicable to trust allotments held by an Indian Tribe or an Indian, unless agreed to by the affected Indian Tribe or Indian owner of the allotment.

SEC. 4. ADDITIONAL ATTRIBUTES OF RESTRICTED FEE TRIBAL LANDS.

(a) LONG-TERM LEASING.—Notwithstanding the provisions of the Act of August 9, 1955 (25 U.S.C. 415; commonly known as the ''Long-Term Leasing Act''), an Indian Tribe may lease land subject to a restriction imposed by the United States against alienation and taxation, or grant an easement or right-of-way thereon, for a period that does not exceed 99 years without review and approval by the Secretary.

(b) TRIBAL LAND MANAGEMENT.—Real property law enacted or established by an Indian Tribe shall—

(1) preempt any provision of Federal law or regulation governing the use of such land, except as set forth in this Act;

(2) be given preemptive effect only upon having been first published in the Federal Register; and

(3) be published in the Federal Register by the Secretary not later than 120 days after the Sec-

retary receives a copy of the Tribal law from the Indian Tribe.

(c) APPLICABILITY OF THE INDIAN GAMING REGULATORY ACT.—Land subject to a restriction imposed by the United States against alienation and taxation acquired by an Indian Tribe under the provisions of this section shall be treated as trust lands for purposes of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 5. RESPONSIBILITIES OF THE SECRETARY RELATING TO RESTRICTED FEE TRIBAL LANDS.

(a) TRUST RESPONSIBILITY NOT DIMINISHED.—Nothing in this section shall be construed to diminish the Federal trust responsibility to any Indian Tribe.

(b) SECRETARY'S TRUST RESPONSIBILITY TO PROTECT RESTRICTED FEE TRIBAL LANDS.—With respect to restricted fee status lands, the Secretary shall enforce the provisions of the Act of June 30, 1834 (25 U.S.C. 177; 4 Stat. 730), to protect the Indian Tribe's title, ownership, tax immunity, and Indian country status of such lands.

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NAVAJO-ZUNI FORT WINGATE TRANSFER

gap that had to be filled by taking money from elsewhere because of rising fuel costs.

This willingness to not look at all American homegrown energy and security is simply wrongheaded. And the idea that it costs more to do this—it costs $83 billion more to protect shipping oil coming from overseas.

I ask my colleagues to resist this amendment.

Mr. BUCK. Mr. Chair, I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chair, I yield myself the balance of the time.

I agree with my colleagues, three of whom have served in the military and understand the need for this.

This is an investment. This is an investment in alternatives. If we are tied to oil, tied to fossil fuels, and have no alternative—right now they are cheap, but then they go up in costs. And they are also far more difficult to get into the field, as Mr. GIBSON pointed out. This is an investment to give us the alternatives that we need.

Nothing is more important to the success of a military—past the people who serve—than the ability to get the fuel they need, whatever form it comes in. This is an investment in developing much-needed alternatives.

I yield back the balance of my time.

Mr. BUCK. Mr. Chairman, the fact that this amendment requires the military to choose the most cost-effective energy source allows the military to spend its money on those priorities, rather than on energy.

I would ask my colleagues to support this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. BUCK).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BUCK. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado will be postponed.

The Committee will rise informally.

The Speaker pro tempore (Mr. LAMALFA) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of its secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2017

The Committee resumed its sitting.

AMENDMENT NO. 2 OFFERED BY MR. FLEMING

The Acting CHAIR (Mr. COLLINS of Georgia). It is now in order to consider amendment No. 2 printed in House Report 114–571.

Mr. FLEMING. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of subtitle B of title III, add the following new section:

SEC. 3___. PROHIBITION ON CARRYING OUT CERTAIN AUTHORITIES RELATING TO CLIMATE CHANGE.

(a) IN GENERAL.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 for the Department of Defense may be obligated or expended to carry out the provisions described in subsection (b).

(b) PROVISIONS.—The provisions described in this subsection are the following:

(1) Sections 2, 3, 4, 5, 6(b)(iii), and 6(c) of Executive Order 13653 (78 Fed. Reg. 66817, relating to preparing the United States for the impacts of climate change).

(2) Sections 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, and 15(b) of Executive Order 13693 (80 Fed. Reg. 15869, relating to planning for Federal sustainability in the next decade).

The Acting CHAIR. Pursuant to House Resolution 735, the gentleman from Louisiana (Mr. FLEMING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. FLEMING. Mr. Chairman, my amendment prevents scarce dollars from being wasted to fund two of President Obama's executive orders regarding climate change and green energy. These are dollars that should go to the readiness of our Armed Forces.

A similar amendment has already been adopted by voice vote for the past 2 years during House floor consideration of the Defense appropriations bills.

My amendment is supported by 28 outside organizations, including the Competitive Enterprise Institute, Americans for Prosperity, Council for Citizens Against Government Waste, and many others.

These executive orders require the Department of Defense to squander—squander—precious defense dollars by incorporating climate change bureaucracies into its acquisition and military operations and to waste money on green energy projects. EPA bureaucrats and other political appointees are directing our military commanders on how to run their installations and procure green weapons, which undermines ongoing acquisition reforms in the NDAA. These activities are simply not the mission of the U.S. military.

Regarding DOD's energy policy, decisions by installation commanders and DOD personnel need to be driven by requirements for actual cost-effectiveness, readiness, not arbitrary and inflexible green energy quotas and CO_2 benchmarks. My amendment does not prevent the DOD from considering renewable energy projects where it makes sense. But these decisions should not be driven by these mandates.

Take, for example, the Naval Station Norfolk, where the solar array cost the Navy $21 million but only provided 2 percent of the base's electricity. According to the Inspector General's Office, it will take 447 years for the savings to pay the cost of the project. However, solar panels usually only last about 25 years.

These mandates are diverting limited military resources to Solyndra-style boondoggles while sacrificing our military's readiness, modernization, and end strength. In a time of declining defense budgets, we need to ensure that every dollar spent goes directly to support the lethality of our Armed Forces.

Again, my amendment is similar to repeated efforts by the House to prevent national security dollars from being wasted to advance the President's onerous green energy and climate change requirements. So I ask that the House continue that opposition to this nondefense agenda by supporting my amendment.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chair, I claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Washington. Mr. Chair, I yield 3 minutes to the gentleman from California (Mr. PETERS).

Mr. PETERS. Mr. Chairman, I oppose this amendment.

In January of this year, the Pentagon issued a directive saying: "The Department of Defense must be able to adapt current and future operations to address the impacts of climate change in order to maintain an effective and efficient U.S. military."

This followed a DOD report to Congress released last July that said: "Climate change is an urgent and growing threat to our national security, contributing to increased natural disasters, refugee flows, and conflicts over basic resources such as food and water . . . and the scope, scale, and intensity of these impacts are projected to increase."

From 2006 to 2010, Syria experienced overwhelming refugee flows that DOD characterized as a climate-related security risk creating negative effects on human security and requiring DOD involvement and resources.

In 2014, the Pentagon reported that the impacts of climate change may increase the frequency, scale, and complexity of future missions, while at the same time undermining the capacity of our domestic installation to support training activities.

The readiness of our military depends on being able to train and equip the most advanced force in the world, but the threat of rising sea levels from escalating temperatures and melting icecaps could put dozens of military installations at risk.

San Diego is home to the largest concentration of military forces in the world. With seven military installations in my district alone, rising sea levels, drought, and finding reliable energy sources all pose challenges. San Diego military installations are investing in energy security and increasing

water and energy efficiency. We should not undermine those efforts.

This amendment is an attempt by top politicians to prevent the Department of Defense, which is tasked with maintaining a strong military, keeping all Americans safe, and protecting our global interests from addressing what they call an urgent and growing threat to our own national security. But national defense is not about politics or ideology. It is about security, readiness, and continuing to field the most dynamic and effective military in the world. We cannot have that if we ignore science and the concerns of the brightest military minds in the United States of America.

I oppose this reckless amendment, and I urge my colleagues to do the same.

Mr. FLEMING. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Louisiana has 2 minutes remaining. The gentleman from Washington has 2¾ minutes remaining.

Mr. FLEMING. Mr. Chairman, I would respond, first of all, by saying I think we all see the reports. If you are on Armed Services, you hear our generals talk about how our readiness is in dire straits, that we can't respond to the challenges around the world.

At a time like this, why would we want to pay 5 or 10 times the nominal amount for fuel? It makes no sense.

To my colleague who wants to argue climate change: fine, we can argue that. But this is not the place to debate that.

You see, my amendment allows for the Department of Defense to do whatever is best for our Armed Forces. Whether you agree with climate change or not, it doesn't matter. All we say is let's free up the DOD, our Armed Forces, and our generals to do the right thing.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. SARBANES).

Mr. SARBANES. I thank the gentleman for yielding.

Mr. Chairman, the Obama administration issued two critical executive orders directing Federal agencies to take responsibility for anticipating and responding to the effects of climate change.

This amendment that is being proposed would block the Department of Defense from undertaking that effort. The amendment is ill-advised. It doesn't protect and prepare the American people for the impacts of climate change, and it won't help our military operate in a new security environment created by climate change.

Climate change poses a significant security threat to the United States and the world at large. But don't take it from me. Our Nation's military leaders are saying we need to prepare for this new threat. The proponents of this amendment should listen to the military experts, not the special interest polluters that benefit from climate denial and the status quo.

As a member of the Energy and Commerce Committee, I have been frustrated that the Republican majority has refused to hold serious hearings on the urgent problem of climate change, so Democrats on that committee went to Annapolis in my State to hold a climate change field forum.

We heard testimony from Vice Admiral Ted Carter, the Superintendent of the Naval Academy. He told us that our future military leaders are learning about the science of climate change and the national security consequences that stem from it. He testified that because the Naval Academy sits on the waters of the Chesapeake Bay, they have several projects in motion to address sea level rise and the increased regularity of flooding. They are retrofitting older buildings and building new facilities that double as seawalls to protect the campus.

Vice Admiral Carter also told harrowing stories of sailing aircraft carriers in between two massive hurricanes and equipment that short-circuited in waters with surface temperatures in excess of 100 degrees.

Certainly my colleagues on the Republican side would not deny that these are consequential problems. Leaders like Admiral Carter cannot afford the luxury of ideological climate denial. He is taking the right steps to address climate change. We should support him and our other military leaders. Unfortunately, this amendment would do the opposite. For that reason, I urge its defeat.

Mr. FLEMING. Mr. Chairman, again, my amendment is not a debate about climate change, regardless of where you fall on that issue. All this does is free up DOD to make the vital important decisions on that, instead of handcuffing it.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, actually, it precisely does handcuff them by telling them how to make their decisions, saying they can't make a decision based on their belief that needs for alternatives to fossil fuels are important. If we don't wish to handcuff them, don't offer an amendment telling them that they have to spend their money in a certain way. That is exactly what this amendment does.

Again, there are multiple reasons for making these investments in alternative energy. I will return to one that was raised by Mr. GIBSON.

Out in the field, you need multiple different sources of energy. If you can get a situation where you have properly developed solar power or thermal power and you can use that on the spot where you are at, instead of relying on trucks to bring in diesel or gasoline, you are saving lives.

This is an investment in making our military more prepared. What this amendment does is it restricts the ability of the Department of Defense to make that investment. If you don't want to restrict them, don't restrict them.

I yield back the balance of my time.

Mr. FLEMING. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Louisiana has 1 minute remaining.

Mr. FLEMING. Mr. Chairman, with all due respect to the ranking member, all my amendment does is holds the status quo before these two executive orders; and that is, the commanders in the field and the generals at the Pentagon can do whatever is best for the military, whether or not it has to do with saving money or spending more money on alternative forms of energy.

My amendment frees them up. It does not restrict them in any way.

I urge adoption of this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. FLEMING).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. SMITH of Washington. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana will be postponed.

□ 1545

AMENDMENT NO. 3 OFFERED BY MR. PEARCE

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 114–571.

Mr. PEARCE. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

After section 7004, insert the following:

SEC. 7005. RETURN OF CERTAIN LANDS AT FORT WINGATE TO THE ORIGINAL INHABITANTS ACT.

(a) SHORT TITLE.—This section may be cited as the "Return of Certain Lands At Fort Wingate to The Original Inhabitants Act".

(b) DIVISION AND TREATMENT OF LANDS OF FORMER FORT WINGATE DEPOT ACTIVITY, NEW MEXICO, TO BENEFIT THE ZUNI TRIBE AND NAVAJO NATION.—

(1) IMMEDIATE TRUST ON BEHALF OF ZUNI TRIBE; EXCEPTION.—Subject to valid existing rights and to easements reserved pursuant to subsection (c), all right, title, and interest of the United States in and to the lands of Former Fort Wingate Depot Activity depicted in dark blue on the map titled "The Fort Wingate Depot Activity Negotiated Property Division April 2016" (in this section referred to as the "Map") and transferred to the Secretary of the Interior are to be held in trust by the Secretary of the Interior for the Zuni Tribe as part of the Zuni Reservation, unless the Zuni Tribe otherwise elects under clause (ii) of paragraph (3)(C) to have the parcel conveyed to it in Restricted Fee Status.

(2) IMMEDIATE TRUST ON BEHALF OF THE NAVAJO NATION; EXCEPTION.—Subject to valid existing rights and to easements reserved pursuant to subsection (c), all right, title,

and interest of the United States in and to the lands of Former Fort Wingate Depot Activity depicted in dark green on the Map and transferred to the Secretary of the Interior are to be held in trust by the Secretary of the Interior for the Navajo Nation as part of the Navajo Reservation, unless the Navajo Nation otherwise elects under clause (ii) of paragraph (3)(C) to have the parcel conveyed to it in Restricted Fee Status.

(3) SUBSEQUENT TRANSFER AND TRUST; RESTRICTED FEE STATUS ALTERNATIVE.—

(A) TRANSFER UPON COMPLETION OF REMEDIATION.—Not later than 60 days after the date on which the Secretary of the Army, with the concurrence of the New Mexico Environment Department, notifies the Secretary of the Interior that remediation of a parcel of land of Former Fort Wingate Depot Activity has been completed consistent with subsection (d), the Secretary of the Army shall transfer administrative jurisdiction over the parcel to the Secretary of the Interior.

(B) NOTIFICATION OF TRANSFER.—Not later than 30 days after the date on which the Secretary of the Army transfers administrative jurisdiction over a parcel of land of Former Fort Wingate Depot Activity under subparagraph (A), the Secretary of the Interior shall notify the Zuni Tribe and Navajo Nation of the transfer of administrative jurisdiction over the parcel.

(C) TRUST OR RESTRICTED FEE STATUS.—

(i) TRUST.—Except as provided in clause (ii), the Secretary of the Interior shall hold each parcel of land of Former Fort Wingate Depot Activity transferred under subparagraph (A) in trust—

(I) for the Zuni Tribe, in the case of land depicted in blue on the Map; or

(II) for the Navajo Nation, in the case of land depicted in green on the Map.

(ii) RESTRICTED FEE STATUS.—In lieu of having a parcel of land held in trust under clause (i), the Zuni Tribe, with respect to land depicted in blue on the Map, and the Navajo Nation, with respect to land depicted in green on the Map, may elect to have the Secretary of the Interior convey the parcel or any portion of the parcel to it in restricted fee status.

(iii) NOTIFICATION OF ELECTION.—Not later than 45 days after the date on which the Zuni Tribe or the Navajo Nation receives notice under subparagraph (B) of the transfer of administrative jurisdiction over a parcel of land of Former Fort Wingate Depot Activity, the Zuni Tribe or the Navajo Nation shall notify the Secretary of the Interior of an election under clause (ii) for conveyance of the parcel or any portion of the parcel in restricted fee status.

(iv) CONVEYANCE.—As soon as practicable after receipt of a notice from the Zuni Tribe or the Navajo Nation under clause (iii), but in no case later than 6 months after receipt of the notice, the Secretary of the Interior shall convey, in restricted fee status, the parcel of land of Former Fort Wingate Depot Activity covered by the notice to the Zuni Tribe or the Navajo Nation, as the case may be.

(v) RESTRICTED FEE STATUS DEFINED.—For purposes of this section only, the term ''restricted fee status'', with respect to land conveyed under clause (iv), means that the land so conveyed—

(I) shall be owned in fee by the Indian tribe to whom the land is conveyed;

(II) shall be part of the Indian tribe's Reservation and expressly made subject to the jurisdiction of the Indian Tribe;

(III) shall not be sold by the Indian tribe without the consent of Congress;

(IV) shall not be subject to taxation by a State or local government other than the government of the Indian tribe; and

(V) shall not be subject to any provision of law providing for the review or approval by the Secretary of the Interior before an Indian tribe may use the land for any purpose, directly or through agreement with another party.

(4) SURVEY AND BOUNDARY REQUIREMENTS.—

(A) IN GENERAL.—The Secretary of the Interior shall—

(i) provide for the survey of lands of Former Fort Wingate Depot Activity taken into trust for the Zuni Tribe or the Navajo Nation or conveyed in restricted fee status for the Zuni Tribe or the Navajo Nation under paragraph (1), (2), or (3); and

(ii) establish legal boundaries based on the Map as parcels are taken into trust or conveyed in restricted fee status.

(B) CONSULTATION.—Not later than 90 days after the date of the enactment of this section, the Secretary of the Interior shall consult with the Zuni Tribe and the Navajo Nation to determine their priorities regarding the order in which parcels should be surveyed and, to the greatest extent feasible, the Secretary shall follow these priorities.

(5) RELATION TO CERTAIN REGULATIONS.—Part 151 of title 25, Code of Federal Regulations, shall not apply to taking lands of Former Fort Wingate Depot Activity into trust under paragraph (1), (2), or (3).

(6) FORT WINGATE LAUNCH COMPLEX LAND STATUS.—Upon certification by the Secretary of Defense that the area generally depicted as ''Fort Wingate Launch Complex'' on the Map is no longer required for military purposes and can be transferred to the Secretary of the Interior—

(A) the areas generally depicted as ''FWLC A'' and ''FWLC B'' on the Map shall be held in trust by the Secretary of the Interior for the Zuni Tribe in accordance with this subsection; and

(B) the areas generally depicted as ''FWLC C'' and ''FWLC D'' on the Map shall be held in trust by the Secretary of the Interior for the Navajo Nation in accordance with this subsection.

(c) RETENTION OF NECESSARY EASEMENTS AND ACCESS.—

(1) TREATMENT OF EXISTING EASEMENTS, PERMIT RIGHTS, AND RIGHTS-OF-WAY.—

(A) IN GENERAL.—The lands of Former Fort Wingate Depot Activity held in trust or conveyed in restricted fee status pursuant to subsection (b) shall be held in trust with easements, permit rights, and rights-of-way, and access associated with such easements, permit rights, and rights-of-way, of any applicable utility service provider in existence or for which an application is pending for existing facilities at the time of the conveyance or change to trust status, including the right to upgrade applicable utility services recognized and preserved, in perpetuity and without the right of revocation (except as provided in subparagraph (B)).

(B) TERMINATION.—An easement, permit right, or right-of-way recognized and preserved under subparagraph (A) shall terminate only—

(i) on the relocation of an applicable utility service referred to in subparagraph (A), but only with respect to that portion of the utility facilities that are relocated; or

(ii) with the consent of the holder of the easement, permit right, or right-of-way.

(C) ADDITIONAL EASEMENTS.—The Secretary of the Interior shall grant to a utility service provider, without consideration, such additional easements across lands held in trust or conveyed in restricted fee status pursuant to subsection (b) as the Secretary considers necessary to accommodate the relocation or reconnection of a utility service existing on the date of enactment of this section.

(2) ACCESS FOR ENVIRONMENTAL RESPONSE ACTIONS.—The lands of Former Fort Wingate Depot Activity held in trust or conveyed in restricted fee status pursuant to subsection (b) shall be subject to reserved access by the United States as the Secretary of the Army and the Secretary of the Interior determine are reasonably required to permit access to lands of Former Fort Wingate Depot Activity for administrative and environmental response purposes. The Secretary of the Army shall provide to the governments of the Zuni Tribe and the Navajo Nation written copies of all access reservations under this subsection.

(3) SHARED ACCESS.—

(A) PARCEL 1 SHARED CULTURAL AND RELIGIOUS ACCESS.—In the case of the lands of Former Fort Wingate Depot Activity depicted as Parcel 1 on the Map, the lands shall be held in trust subject to a shared easement for cultural and religious purposes only. Both the Zuni Tribe and the Navajo Nation shall have unhindered access to their respective cultural and religious sites within Parcel 1. Within 1 year after the date of the enactment of this section, the Zuni Tribe and the Navajo Nation shall exchange detailed information to document the existence of cultural and religious sites within Parcel 1 for the purpose of carrying out this subparagraph. The information shall also be provided to the Secretary of the Interior.

(B) OTHER SHARED ACCESS.—Subject to the written consent of both the Zuni Tribe and the Navajo Nation, the Secretary of the Interior may facilitate shared access to other lands held in trust or restricted fee status pursuant to subsection (b), including, but not limited to, religious and cultural sites.

(4) I–40 FRONTAGE ROAD ENTRANCE.—The access road for the Former Fort Wingate Depot Activity, which originates at the frontage road for Interstate 40 and leads to the parcel of the Former Fort Wingate Depot Activity depicted as ''administration area'' on the Map, shall be held in common by the Zuni Tribe and Navajo Nation to provide for equal access to Former Fort Wingate Depot Activity.

(5) COMPATIBILITY WITH DEFENSE ACTIVITIES.—The lands of Former Fort Wingate Depot Activity held in trust or conveyed in restricted fee status pursuant to subsection (b) shall be subject to reservations by the United States as the Secretary of Defense determines are reasonably required to permit access to lands of the Fort Wingate launch complex for administrative, test operations, and launch operations purposes. The Secretary of Defense shall provide the governments of the Zuni Tribe and the Navajo Nation written copies of all reservations under this paragraph.

(d) ENVIRONMENTAL REMEDIATION.—Nothing in this section shall be construed as alleviating, altering, or affecting the responsibility of the United States for cleanup and remediation of Former Fort Wingate Depot Activity in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(e) PROHIBITION ON GAMING.—Any real property of the Former Fort Wingate Depot Activity and all other real property subject to this section shall not be eligible, or used, for any gaming activity carried out under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

The Acting CHAIR. Pursuant to House Resolution 735, the gentleman from New Mexico (Mr. PEARCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Chair, in January of 1993, the BRAC Commission closed

Fort Wingate in New Mexico. Fort Wingate was destined and designated to go to two tribes, equitably divided between the two—the Navajo Nation and the Zunis.

During the past 12 years, I have been involved in negotiations back and forth between the tribes. The lands were occupied ancestrally by both tribes. There have been many long, ongoing discussions between all of the parties. We have gotten signatures in the past from different members of the Navajo government. We currently have a letter dated May 16, 2016, in which it states that it is the opinion of the Navajo Nation that the land division and the terms developed between the two tribes would provide a solution to the land division.

All we are asking is that the agreed-upon maps be distributed in accordance with the terms, signed by the speaker of the Navajo Nation and the Zunis. That is the purpose of this amendment today. It is a fairly simple distribution according to the provisions that are listed in the BRAC ruling of January 1993.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chair, I claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Washington. Mr. Chair, I yield 5 minutes to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chair, I rise in opposition to this amendment in its current form and at this particular time.

This amendment, as it has been pointed out, directly impacts two federally recognized tribal nations: the Navajo Nation and the Zuni Pueblo Nation in New Mexico.

They have been working with the Department of Defense to resolve the disposition of this excess Federal land. The Navajo is one of the tribes that would receive the land in transfer, and it is opposed to some of the language that is still occurring in this amendment. The Pearce amendment, unfortunately, claims a provision that would require a right-of-way in perpetuity to the Navajo, and the Navajo agrees, it is my understanding, to work toward some of the land transfer.

I ask the gentleman: Are they aware that the Navajo doesn't agree in having this land transfer go in perpetuity and that it would like to work something else out?

I yield to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chair, that is a provision that I, personally, did not put into the bill. It came from the committee of jurisdiction, the Natural Resources Committee. They insisted on it because it is prevailing language under the law.

The objection in the letter from the Navajo, which I was just showing the gentlewoman previously, describes that, and the language reads that they have so far failed to acquire a new right-of-way with the U.S. Army and now have come to Congress to address their error.

What has happened is that the right-of-way has yielded, and the language here was language that has previously been set up by the committee in order to address this.

Ms. MCCOLLUM. Reclaiming my time, I thank the gentleman.

Mr. Chair, there is some disagreement as to how this language should be structured. I don't think we should be pushing through something that the Navajo Nation now finds controversial but that wasn't controversial when working with the Department of Defense and making sure that they had the right-of-way and access to the land.

It is a sovereign nation. There are only 10 minutes of debate. There seems to be a little bit of uncertainty as to where the Navajo Nation is coming down on the particular language that the gentleman has. I do not fault the gentleman for bringing the language forward, as Chairman BISHOP has changed from what the original conversation had been between the sovereign nation and the Department of Defense by putting the perpetuity in it.

I believe we should respect the right of sovereignty of the tribe, and I believe at this time we should defeat the amendment. I would like to work with the gentleman to come up with language that is acceptable both for the Department of Defense and the two tribal nations. They were so very close. I would like to make that happen.

Mr. PEARCE. Again, addressing the gentlewoman, those are the subjects that Mr. LUJÁN and I have agreed that we would work on in conference. I think that we are more than willing to accommodate, but to stall this out now—this is the last vehicle this year. Literally, we are out of time. I would gladly accept the gentlewoman's help in the conference committee, and I want to resolve this. Again, I have been working on it for 12 years. We go and we get the signatures. It has been very arduous on the parts of all, and I understand the difficulty when you have aboriginal lands.

Again, when I look at the language, it is language that was previously established in the Ho-Chunk Nation distribution. The language literally is set in precedent, and the committee explains to us there is not much option there; but I am more than willing to work on the issue with the gentlewoman.

Ms. MCCOLLUM. Will the gentleman yield?

Mr. PEARCE. I yield to the gentlewoman from Minnesota.

Ms. MCCOLLUM. Mr. Chair, I look forward to working with the gentleman. I am sure we can come up with an accomodation that will make everyone satisfied.

Mr. PEARCE. Mr. Chair, reclaiming my time, what we are trying to do is put into the hands of two Indian nations land that has been designated for them since 1993. I think that all parties just want it to be done in the right fashion. We are so close at this point that I would really appreciate the fact that we put it in this bill, that we include it, and move it into the conference. I am certain that with the Senator's input, they will be listening to the same concerns as the gentlewoman is listening to.

Again, I appreciate the help of Mr. YOUNG, Mr. LUJÁN—all of those parties—and both Chairman THORNBERRY and Chairman BISHOP.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chair, I yield back the balance of my time.

Mr. PEARCE. Mr. Chair, in closing, again, I just appreciate the consideration by the gentlewoman.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Mexico (Mr. PEARCE).

The amendment was agreed to.

AMENDMENTS EN BLOC NO. 1 OFFERED BY MR. THORNBERRY OF TEXAS

Mr. THORNBERRY. Mr. Chair, pursuant to House Resolution 735, I offer amendments en bloc.

The Acting CHAIR. The Clerk will designate the amendments en bloc.

Amendments en bloc No. 1 consisting of amendment Nos. 4, 13, 15, 16, 17, 19, 21, 22, 24, 26, 29, 30, and 31 printed in House Report No. 114-571, offered by Mr. THORNBERRY of Texas:

AMENDMENT NO. 4 OFFERED BY MR. SCHWEIKERT OF ARIZONA

Page 372, after line 8, insert the following:

SEC. 1014. UNMANNED AERIAL SYSTEMS TRAINING MISSIONS.

The Secretary of Defense shall coordinate unmanned aerial systems training missions along the southern border of the United States in order to support the Department of Homeland Security's counter-narcotic trafficking efforts.

AMENDMENT NO. 13 OFFERED BY MRS. DAVIS OF CALIFORNIA

In section 522, page 120, strike lines 9 through 19, and insert the following:

Section 701(i) of title 10, United States Code, is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, the two members shall be allowed a total of at least 36 days of leave under this subsection, to be shared between the two members. The Secretary concerned shall permit the transfer of such leave between the two members to accommodate individual family circumstances.".

In section 529, page 130, strike lines 9 through 20.

AMENDMENT NO. 15 OFFERED BY MR. COSTELLO OF PENNSYLVANIA

At the end of subtitle H of title V, add the following new section:

SEC. 5___. REPORT ON EXTENDING PROTECTIONS FOR STUDENT LOANS FOR ACTIVE DUTY BORROWERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to the appropriate congressional committees a report detailing the information, assistance, and efforts to support and inform

NATIONAL CONGRESS OF AMERICAN INDIANS

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The National Congress of American Indians
Resolution #DEN-18-020

TITLE: Supporting Congressional Legislation that Authorizes Tribes to Convert Federal Trust Lands into Tribally-Owned Restricted Fee Indian Country

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, throughout its history the United States has sought to acquire title and control over aboriginal American Indian lands and has used the concept of trusteeship to acquire title and control over remaining tribal lands occupied by Indian people, with such lands known as "trust lands;" and

WHEREAS, all American Indian and Alaska Native tribal governments should have the right to retain and obtain title and sovereignty to their own lands recognized by the United States federal government as Indian Country without the need for control and management by the Bureau of Indian Affairs; and

WHEREAS, federal government control and management over tribal lands has frustrated investment and development of tribal economies and interfered with the ability of tribal governments to improve the quality of life of their tribal citizens; and

WHEREAS, the Congress in recent years has taken action to promote greater authority of tribal governments over their trust lands through enactment of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) which allows for autonomous long-term leasing of tribal trust lands; and

WHEREAS, all federally recognized tribal governments should have the choice under federal law to regain title and total control over the use of their lands as a recognition of their inherent sovereignty, but retain the responsibility of the federal government to protect the Indian Country status of said lands.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) does hereby call upon the Congress to support legislation that provides tribal governments the option of converting federal government-owned trust land into tribally-owned restricted fee Indian Country at their choosing if such legislation:

- Does not diminish the federal trust responsibility to any tribe;
- Makes clear that the resulting restricted fee Indian Country status of the land retains the same protections as trust land, including but not limited to exemptions from state and local taxation and restrictions against alienation; and
- Does not negatively affect tribal regulatory jurisdiction over such lands; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2018 Annual Session of the National Congress of American Indians, held at the Hyatt Regency in Denver, Colorado October 21-26, 2018, with a quorum present.

Jefferson Keel, President

ATTEST:

Juana Majel Dixon, Recording Secretary

2021 Virtual Winter Convention

RESOLUTION #2021 – 05

CALLING UPON CONGRESS TO ENACT LEGISLATION TO AUTHORIZE TRIBES TO OWN LANDS IN RESTRICTED FEE INDIAN COUNTRY STATUS

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, throughout its history the United States has sought to acquire title and control over aboriginal American Indian lands and has utilized the concept of trusteeship to acquire title and control over remaining tribal lands occupied by Indian people, with such lands known as "trust lands";

WHEREAS, all American Indian and Alaska Native tribal governments should have the right to obtain title and sovereignty to their own lands recognized by the United States federal government as Indian Country without the need for control and management of those lands by the Bureau of Indian Affairs;

WHEREAS, federal government control and management over tribal lands has frustrated investment and development of tribal economies and interfered with the ability of tribal governments to improve the quality of life of their tribal citizens; and

WHEREAS, the Congress in recent years has taken action to promote greater authority of tribal governments over their trust lands through enactment of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) which allows for autonomous long-term leasing of tribal trust lands; and

WHEREAS, all federally-recognized tribal governments should have the choice under federal law to regain title and total control over the use of their lands as a recognition of their inherent sovereignty, but retain the responsibility of the federal government to protect the Indian Country status of said lands; now

THEREFORE BE IT RESOLVED, that the Affiliated Tribes of Northwest Indians does hereby call upon the Congress to support legislation such as the Native American Land Empowerment Act to provide tribal governments the option of acquiring tribally-owned restricted fee Indian Country at their choosing if such legislation:

- Does not diminish the federal trust responsibility to any tribe;
- Makes clear that the resulting restricted fee Indian Country status of the land retains the same protections as trust land, including but not limited to exemptions from state and local taxation and restrictions against alienation; and
- Does not negatively affect tribal regulatory jurisdiction over such lands; and

BE IT FURTHER RESOLVED, that this resolution is in support of National Congress of American Indians resolution DEN-18-020 and shall be the policy of ATNI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2021 Virtual Winter Convention of the Affiliated Tribes of Northwest Indians, January 25-28, 2021, with a quorum present.

Leonard Forsman, President

Norma Jean Louie, Secretary

2/29/08 RB

USET Resolution No. 2008:020

SUPPORT FOR RESTRICTED FEE LANDS

WHEREAS, United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-five (25) federally recognized Tribes; and

WHEREAS, the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and

WHEREAS, the Seneca Nation of Indians is a member of the historic Haudenosaunee, or Six Nations Iroquois Confederacy, with aboriginal land recognized and protected under the Canandaigua Treaty of 1794; and

WHEREAS, much of the land held by sovereign, federally-recognized Indian Nations within the exterior boundaries of what is now known as the State of New York is land recognized by the United States (US) as "restricted fee" lands with protections against alienation and taxation that are provided in Federal law, in treaties and other agreements made with said Indian Nations; and

WHEREAS, since the enactment of the Indian Reorganization Act (IRA) in 1934, longstanding Federal Indian policy and practice has favored the facilitation by Indian Tribes and Nations of the reacquisition and protection of lands previously lost due to the depredations of a dominant society and other miscarriages of the rule of law; and

WHEREAS, the regulations at 25 C.F.R. Part 151 implement the IRA and its policy of land reacquisition, but only insofar as the reacquired land is accepted into trust status; and

WHEREAS, the regulations at 25 C.F.R. Part 151.2(e) reference "restricted land" and "land in restricted status" but, unlike with trust land, no comparable process is provided to accept reacquired fee land into "restricted status"; and

WHEREAS, the U.S. Congress in isolated instances has previously authorized specific statute by limited process whereby Indian Tribes and Nations within the exterior boundaries of what is now known as the State of New York may place reacquired land in restricted status in response to the settlement of a land claim; and

WHEREAS, the U.S. Congress in 1994 enacted an amendment to the IRA, codified at 25 U.S.C 476(f) and (g), which forbids the U.S. Department of Interior from giving effect to any regulation, decision or determination which "classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian Tribe relative to the privileges and immunities available to other federally recognized Tribes...;" and

WHEREAS, the sovereign, federally-recognized Indian Tribes and Nations within the exterior boundaries of what is now known as the State of New York are not accorded an opportunity comparable to that enjoyed by other Indian Tribes and Nations to have their reacquired lands protected by the U.S. as restricted fee lands; therefore be it

RESOLVED the USET Board of Directors calls upon the United States Congress and the Department of Interior to provide for a procedure whereby any Indian Tribe or Nation within the exterior boundaries of what is now known as the State of New York may place its required lands in restricted fee status and thereby gain the protection of the United States in that land against alienation and encumbrance.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, Thursday, February 14, 2008.

Brian Patterson, President
United South and Eastern Tribes, Inc.

Cheryl Downing, Secretary
United South and Eastern Tribes, Inc.

UNITED SOUTH AND EASTERN TRIBES, INC.

Established 1969

United South and Eastern Tribes, Inc.

USET Resolution No. 2008:021

SUPPORT OF SENECA NATION'S JAY TREATY RIGHTS TO CROSS THE UNITED STATES-CANADA BORDER

WHEREAS, United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-five (25) federally recognized Tribes; and

WHEREAS, the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and

WHEREAS, the Seneca Nation of Indians (Seneca) is a sovereign, self-governing Indian nation with approximately 7,600 enrolled members residing in both the United States (US) and Canada, and possessing five Territories within its aboriginal lands in Western New York; and

WHEREAS, Seneca members are connected politically, economically, socially and culturally to the 50,000 other members of the historic Six Nations of the Haudenosaunee Confederacy, residing on 19 territories located on both sides of the U.S.-Canada border; and

WHEREAS, the right for Senecas to pass freely across the U.S.-Canada border based solely on Seneca political status was recognized and affirmed under the Jay Treaty of Amity, Commerce and Navigation of 1794 ("Jay Treaty") with the Federal government, which is now threatened by the Department of Homeland Security's (Department) proposed rule implementing the Western Hemisphere Travel Initiative; and

WHEREAS, the Senecas have traditionally and routinely practiced their right to pass freely across the border; and

WHEREAS, the Department has proposed regulations that would require Seneca members to obtain a passport to cross the border and fails to make provisions that would enable members to present Tribal identification only, thereby attacking the unique treaty rights; and

WHEREAS, the Department recently released interim guidance instructing Customs and Border Patrol to accept Tribal identification cards containing a photograph beginning January 31, 2008 through June 2009; and

WHEREAS, the Seneca Nation is petitioning the Executive Branch and Congress to continue to recognize the treaty rights of Seneca Nation members to cross the border freely and solely on the basis of their tribal identification as such; and

WHEREAS, the Seneca Nation is a member of USET, Inc. and seeks the support of member Tribes in protecting the rights of Seneca and all other northern border Tribes and Nations; therefore be it

RESOLVED the USET Board of Directors affirms its support for all USET member Tribes in protecting their rights to pass feely across the United States-Canadian border solely on the basis of their Tribal identification.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, Thursday, February 14, 2008.

Brian Patterson, President
United South and Eastern Tribes, Inc.

Cheryl Downing, Secretary
United South and Eastern Tribes, Inc.

"Because there is strength in Unity"