



Prairie Band Potawatomi Nation
Government Center

March 21, 2023

EMAIL to: ransom.fox@mail.house.gov

Hon. Bruce Westerman, Chairman
U.S. House of Representatives Natural Resources Committee
1324 Longworth House Office Building
Washington, D.C. 20515

Re: *Responses to Questions for the Record of the Oversight Hearing before the Subcommittee on Indian and Insular Affairs "Unlocking Indian Country's Economic Potential" on March 1, 2023*

Dear Chairman Westerman:

On behalf of the Prairie Band Potawatomi Nation ("Nation"), I would like to thank you for your questions relating to my testimony before the Subcommittee on Indian and Insular Affairs earlier this month. Here is a link to my full testimony: <https://www.dropbox.com/s/5qej9tf5uou15kv/Rupnick%20hearing%20supp%20statement%203.15.23%20%28final%29%20copy.pdf?dl=0>. Below are my responses to your questions:

1. Please further expand on your testimony and highlight further examples of where your tribal government has been able to successfully utilize tribal lands for economic benefit.

Our Nation's primary economic activity and source of government revenue is our Class II and Class III gaming facilities. To the extent that these facilities are located on our Reservation trust lands, it can be said that that we have successfully utilized our tribal lands for economic benefit. However, the primary reason for our economic success in this area is due to our favorable market location, our regulatory advantage, and the stability of the federal regulatory framework.

In addition, we have established two convenience store businesses for the retail sale of motor fuel and tobacco products under our state tax compact. However, beyond these ventures, our lands have not generated much government revenue at all.

We have established a diversified holding company – Prairie Band LLC – that operates several subsidiaries focused on 8(a) contracting and other off-territory investments. Only our convenience store and golf course operations have a component related to operation on our trust lands. We have also established a hemp farm and a bison ranch, but neither of these enterprises have generated a profit currently.

As reiterated from my testimony, one primary reason why there has not been more development of our land is because it is heavily “checkerboarded”. Agricultural and grazing use is limited because no one landowner – including the Nation itself – owns enough land to establish a commercially viable business.

If the Nation were to have the benefit of the tools outlined in my written testimony – restricted fee land, extended leasing authority, and liberty to buy and sell fee lands – I believe that the Nation could achieve more economic success.

2. Is there any further information you think the Committee needs to make good policy regarding land use restrictions on tribal lands?

In addition to the recommendations contained in my written testimony, there are other changes in federal law and regulation that must occur before Tribal nations can be more self-sufficient.

First, Congress needs to address the race-based taxation imposed on non-Indians doing business on Tribal lands. In 1989, the U.S. Supreme Court authorized state and local governments to tax non-Indian economic activity occurring on Tribal lands. See *Cotton Petroleum v. New Mexico*, 490 U.S. 163 (1989). Congress never authorized this activity and it has served to cripple the ability of Tribal nations to pursue economic activities within our reservations. This case followed the decision in *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982) which upheld the ability of Tribal governments to impose taxes on non-Indian economic activity. The clash of these two lines of cases is to create a situation of “dual taxation” that inhibits non-Indian investment within our nations. It is intolerable and as long as this situation is allowed to exist, Tribal economies will never truly be free to generate economic self-sufficiency.

Second, Federal regulations in other areas unrelated to lands should be reformed to support Tribal economic growth. In 2000, the Congress directed the Commerce Department to establish a “Regulatory Reform and Business Development on Indian Lands Authority” to “facilitate the identification and subsequent removal of obstacles to investment, business development, and the creation of wealth” within Tribal nations. See Pub. L. 106-447, 114 Stat. 1936, Nov. 6, 2000. This law was never implemented.

The Findings set forth in this law are as relevant as ever and should be addressed without further delay:

“Congress finds that—

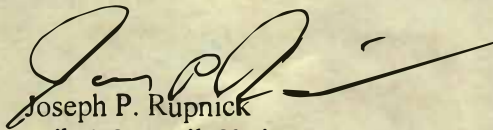
- (1) despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills which are greater than the rates for any other group in the United States;
- (2) the capacity of Indian tribes to build strong Indian tribal governments and vigorous economies is hindered by the inability of Indian tribes to engage

communities that surround Indian lands and outside investors in economic activities conducted on Indian lands;

- (3) beginning in 1970, with the issuance by the Nixon Administration of a special message to Congress on Indian Affairs, each President has reaffirmed the special government-to-government relationship between Indian tribes and the United States; and
- (4) the United States has an obligation to assist Indian tribes with the creation of appropriate economic and political conditions with respect to Indian lands to—
 - (A) encourage investment from outside sources that do not originate with the Indian tribes; and
 - (B) facilitate economic development on Indian lands.

Conclusion. If you have any further questions, please do not hesitate to contact me.

Sincerely,



Joseph P. Rupnick
Tribal Council Chairman
Prairie Band Potawatomi Nation