



COW CREEK BAND OF UMPQUA TRIBE OF INDIANS
GOVERNMENT OFFICES
2371 NE STEPHENS STREET, SUITE 100
ROSEBURG, OR 97470-1399
Phone: 541-672-9405
Fax: 541-673-0432

March 20, 2023

Harriet M. Hageman, Chairman
US House of Representatives
Committee on Natural Resources
Subcommittee on Indian and Insular Affairs

Re: Responses to additional questions from the Subcommittee on Indian and Insular Affairs hearing March 1, 2023 titled "Unlocking Indian Country's Economic Potential".

Chair Hageman,

Thank you for the opportunity to testify before the Subcommittee on Indian and Insular Affairs oversight on Wednesday, March 1, 2023 to present testimony on behalf of the Cow Creek Band of Umpqua Tribe of Indians (Tribe) regarding "Unlocking Indian Country's Economic Potential". This is such an important topic in Indian Country and I hope my testimony was helpful in defining the subcommittee's understanding of the issues.

I received your letter dated March 7, 2023 requesting additional information to expand upon my testimony. I want to thank you, Chairman Westerman, and the members of the subcommittee for providing additional questions. My responses are attached.

Thank you once again for the opportunity to testify and to provide additional supporting information. I hope this additional information is helpful to the subcommittee. Please contact me if there are opportunities to further expand on my responses or provide additional assistance to the subcommittee as it evaluates new opportunities to unlock Indian Country's economic potential.

Sincerely

A handwritten signature in black ink, appearing to be "JR" with a long horizontal stroke extending to the right.

Jason Robison
Land and Resources Officer
Cow Creek Band of Umpqua Tribe of Indians
Jrobison@cowcreek-nsn.gov

**Committee on Natural Resources
Subcommittee on Indian and Insular Affairs
Oversight Hearing
1324 Longworth House Office Building
March 1, 2023
9:00AM
"Unlocking Indian Country's Economic Potential"**

**Response to Questions from Rep. Westerman for Jason Robison, Land and Resources
Officer, Cow Creek Band of Umpqua Tribe of Indians**

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.

Part of the Cow Creek Band of Umpqua Tribe of Indian's (Tribe) mission is to provide for the long-term economic needs of the Tribe and its members through the economic development of Tribal lands. The Umpqua Indian Development Cooperation (UIDC) is a federally chartered corporation and the business division of the Tribe. The Tribe operates several businesses which create jobs and job training opportunities for tribal members and the communities in which they serve. Businesses include: Seven Feathers Casino and Resort; Seven Feather's Truck and Travel; Seven Feathers RV Resort; Creekside Inn; Anvil Northwest; Takelma Roasting Company; K-Bar Ranches; and, Seven Generations Farms. These businesses are mostly located on Tribal trust lands within the Tribe's restoration act area. The Tribe also manages more than 30,000 acres of forest lands, which provides revenue to the Tribe through the sale of forest products. Together, these business provided funding to support Tribal member services such as: social services, health care, elders care, housing, and education.

The Tribe is currently evaluating larger scale leasing projects on Tribal lands utilizing its authority under the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act). The Tribe is also looking at ways to utilize its existing cooperative management agreements with the Umpqua National Forest, and new agreements with the Oregon/Washington Bureau of Land Management (BLM) to create new economic opportunities for the Tribe and local community by utilizing forest residuals from forest management projects.

Please further expand on your testimony of how your tribe complies with all Federal laws including those for environmental protections.

The Tribe follows all federal laws of general applicability including but not limited to the Endangered Species Act (ESA), Clean Water Act (CWA), and Clean Air Act (CAA). The Tribe also follows the National Environmental Policy Act (NEPA) to the extent that it applies to federal decisions and actions on Tribal trust land.

Congress has provided Indian Tribes with opportunities to enact environmental regulations that are tailored to the unique needs of the Tribal communities. For example, under the HEARTH

Act, Tribes have the ability to develop Tribal leasing regulations which are submitted to and approved by the Secretary of the Interior (SOI). Once authorized, Tribes can negotiate and enter into surface leases under their approved HEARTH Act regulations without further approval from the Department of the Interior (DOI). The Tribe's HEARTH Act regulations were approved by the SOI. These regulations included a Tribal environmental review process that is consistent with applicable federal law. The Tribe's regulations layout the frame work for evaluating potential effects of any proposed leasing action while allowing opportunity for input.

Cow Creek is one of two Tribe's in the country that has been accepted into the Indian Trust Asset Reform Act (ITARA) Demonstration Project. Under the authority provided by the ITARA statute, the Tribe prepared and the SOI approved an Indian Trust Asset Management Plan (ITAMP) which contains Tribal forestry regulations replacing the 25CFR 163 federal regulations. Under the Tribal forestry regulations, most all forestry actions (timber sales, timber permits, prescribed burn plans, forestry enterprise agreements, etc.) previously approved by the Bureau of Indian Affairs (BIA), often with long delays, are now approved by the Tribal Chairman under Tribal law. The Tribe has developed a Tribal Environmental Review Report (TERR) process under its regulations to evaluate environmental impacts. In addition, the Tribe utilizes a take avoidance strategy under section 9 of the ESA to minimize the risk of take to species listed as threatened or endangered. This strategy includes an evaluation of biological and ecological data based on site specific conditions and surveys. Section 7 of the ESA no longer applies to Tribal forest management since there is no federal decision. Section 9 of ESA is much simpler and avoids long delays (a year or longer) which often happens under Section 7 consultation.

The Tribe has built up its capacity to include a variety of resource specialists within the following areas: fisheries, wildlife, forestry, water and environmental, geographic information systems, and heritage/cultural). The Tribe has also developed additional internal process and procedures for reviewing and evaluating tribal projects to maintain compliance with all applicable federal and Tribal laws.

Are there areas of the compliance process that are burdensome or duplicative beyond what is needed?

The standard federal process for compliance with federal environmental laws are often very burdensome and time consuming. The process often involves multiple federal agencies and multiple personnel. In many cases, the responsiveness of the federal agencies involved is lacking due to limited resources resulting in critical delays to Tribal projects. Furthermore, federal agency staff often lack local site-specific knowledge and experience with Tribal lands and activities.

Carrying out Tribal activities under the HEARTH ACT and ITARA has enabled the Tribe to use streamlined processes which are more cost effective than following federal rules, manuals and handbooks. Further, implementation of projects under Tribal approval can be accomplished in a matter of weeks compared to a year or more under federal processes and approval.

If so, how could Congress improve that process for tribes?

Congress should continue to look for ways to streamline the federal environmental review process for Tribes by incorporating language in future legislation that allows Tribal governments to develop and implement their own Tribal environmental compliance rules and regulations for economic development and other management activities on Tribal lands. The HEARTH ACT and ITARA are good examples of how this process can work better. Congress should expand on these authorities to allow tribe's more autonomy over all trust resources in order to promote tribal sovereignty and self-governance.

Congress should also examine ways to utilize Tribal environmental review processes on federal lands in order to streamline process and procedures for co-management and co-stewardship projects. Much like adopting another agencies NEPA documents, Congress should allow federal agencies to adopt Tribal environmental review process and procedures for projects covered under Tribal Forest Protection Act (TFPA) agreements or other cooperative agreements. Congress should also look to Tribe's with appropriate environmental capacity to assist federal agencies with their environmental review and compliance process. This can be accomplished through the contracting of Tribal resources or by passing funds through the Tribe to procure additional third-party resources to perform this work. The 638 agreement works well for this type of work.

Please further expand on your testimony and highlight what can be done to reduce wildfire risk and increase forest resiliency when specifically working with adjacent partners, like improvements to the Good Neighbor program at USDA.

In order to reduce wildfire risk and increase forest resiliency, federal agencies must have the ability to plan and implement preventive measures at a meaningful landscape scale. Federal agencies must also be provided the human resources and financial resources to be able to accomplish preventative forest management activities. Congress should examine ways to increase federal appropriations to fire-preparedness activities for Tribes and federal agencies.

Project planning and environmental review process needs to be streamlined to allow for a more rapid response to climate change and other threats which have created conditions that support catastrophic wildfires. This can be accomplished by developing new Categorical Exclusions (CE), under NEPA, for fuels reduction projects and other forest management activities. CEs should not just be limited to linear fuels treatments. Agencies must be allowed to take holistic approach to managing the entire stand if they are to be successful at reducing wildfire risk. Fuels reduction should be broaden to include other stand management activities, and fuels reduction projects should be allowed across the landscape to create continuity regardless of land use allocation. In addition, the size of these projects should be meaningful enough to reduce wildfire risk at a watershed scale.

Congress should direct federal agencies to re-evaluate forest management plans to reflect current day threats and conditions and incorporate tribal goals, values, and objectives. Existing plans are based on an outdated system of reserves which set limits on the federal government's ability to actively managed forest stands and habitat. These management plans often associate active

management with negative impacts; however, lack of management has often led to a complete loss of the habitats and beneficial ecological conditions which these plans were initially set out to protect/reserve. There needs to be a better balance between protection and management of biological and ecological resources, and management of stand conditions which create overstocking and high fuel levels. In addition, due to conflicting resource values, agencies aren't able to implement larger landscape scale projects. Individual resource restrictions or limitations have resulted in very small scale projects which tend to be very vulnerable to wildfire. As a result of existing planning goals and objectives, and federal environmental protections, agency staff often focus on advocating for resource protections over the long-term health and vitality of the resources.

The lack of federal land management has also resulted in a loss of infrastructure that has adversely impacted Tribal and rural communities. The lack of infrastructure has limited forest restoration work because it makes meaningful landscape restoration economically infeasible. Investment in infrastructure requires security and assurance of supply in order to have the confidence to recapture the large investments required to develop processing facilities. To address this issue, Congress should authorize tribes through TFPA contracts and/or other collaborative agreements, to enter into long-term agreements (20+ years) with the Forest Service and BLM to guarantee supply arrangements to anchor future infrastructure development. There is also a need to create new authorities for Tribal co-management and stewardship across the landscape or expand the use of the TFPA to include much larger landscapes.

Local initial attack capacity on most federal lands is lacking and fire suppression resources are often limited during fires season. Congress should direct the Secretary of Agriculture to enter into contracts or cooperative protective agreements with a State(s), Tribe(s), and/or local fire protection districts or associations for conducting initial attack and wildfire suppression activities on Federal lands that are nearby and adjacent to Tribal Forest or agricultural lands. Every attempt should be made to suppress wildfires as quickly as possible.

Prescribed fire needs to be used as a tool to put fire back on the landscape to help manage forest fuels, promote forest health, and further reduce the risk of catastrophic wildfire. Congress should provide authorities for Tribe's and Federal land management agencies to conduct prescribed burning demonstration projects across federal ownerships. Fire needs to be reintroduce and used frequently across the landscape.

The Agricultural Improvement Act of 2018 (Farm Bill) included Tribes in the Good Neighbor Authority (GNA) but failed to provide for the same treatment of revenues received from the sale of timber or other forest products. Congress should fix this issue in the next farm bill to allow tribes to retain receipts under good neighbor. I have inserted some proposed legislative language below:

Funds received from the sale of timber or other commercial forest products by a Tribe under a good neighbor agreement shall be retained and used by the Tribe— “(I) to carry out authorized restoration services on Federal land under the good neighbor agreement; and “(II) if there are funds remaining after carrying out subclause (I), to carry out authorized restoration

services on nearby or adjacent Federal land under good neighbor agreements, 638 agreements, and/or other applicable agreements.

The Farm bill also provided authority for the Forest Service to utilize 638 agreements with Tribal governments to accomplish forest management activities under the TFPA. This has proven to be a valuable tool for the Tribe's work with the Umpqua National Forest. The use of 638 authority should be expanded beyond TFPA, and its use should be allowed within all USDA agencies in a manner similar to that of the DOI. All 638 agreements should be allowed up to 20 years for consistency with Good Neighbor and Stewardship agreements rather than the arbitrary five year administrative time limit.

Tribal culture facilitates innovative and integrated forestry practices. As noted in the Indian Forest Management Assessment Team (IFMAT) Reports (I, II, and III), Indian forestry has the potential to provide models for sustainable forestry and resource management that can be applied on the federal forest estate. IFMAT IV is nearing completion and Congress should evaluate the findings and recommendations in this assessment to adopt new approaches to managing Indian forest lands and adjacent federal forest lands.

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

Congress should develop procedures for Tribes to place fee land into restricted fee status to allow tribes the opportunity to manage tribal fee lands subject to tribal laws and regulations, and applicable federal laws and regulations rather than State laws.

As more tribes pivot towards tribal self-governance and self-determination, Congress should evaluate new opportunities and authorities for Tribes to assume more responsibility over Tribal lands and resources. Congress should also explore new authorities that expand the use of Co-management and Co-stewardship across federal lands.

Congress should evaluate ways to streamline opportunities for tribes to lease, transfer, or purchase federal administrative facilities. The Tribe is currently working on a potential acquisition of the Tiller Ranger District Offices; however, the current administrative process may take 10 years or more to work through. Congress should amend Title V—Forest Service Facility Realignment and Enhancement Act to expand the size of transferable acreage up to 100 acres; authorize the Secretary of Agriculture to transfer administrative facilities directly to Tribal governments; and, extend authorization authority for an additional 5 -10 years.