



# United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

MAR 21 2024

The Honorable Harriet M. Hageman  
Chair  
Subcommittee on Indian and Insular Affairs  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

Dear Chair Hageman:

Enclosed are responses to questions for the record submitted to the Department's witness, Bryan Newland, Assistant Secretary for Indian Affairs, following his appearance before your Subcommittee at a legislative hearing on March 24, 2023. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on these matters.

Sincerely,

Pamela L. Barkin  
Acting Legislative Counsel  
Office of Congressional and  
Legislative Affairs

Enclosure

cc: The Honorable Teresa Leger Fernández  
Ranking Member  
Subcommittee on Indian and Insular Affairs

Questions for the Record  
U.S. House Committee on Natural Resources,  
Subcommittee for Indian and Insular Affairs  
Legislative Hearing on H.R. 1246 and H.R. 1532  
March 24, 2023

**Questions from Chairman Westerman**

**Question 1: How many inquiries on title insurance related to land owned by tribes in fee simple has the Department received over:**

**a. the past 5 years?**

**Response:** The Department is currently not aware of any inquiries on title insurance related to land owned by Tribes in fee simple status received by the Department within the past 5 years.

**b. the past 10 years?**

**Response:** The Department is aware of one inquiry on title insurance related to land owned by Tribes in fee simple status that the Department received within the past 10 years.

**c. Please estimate the amount of staff time has been spent responding to those inquiries, including but not limited to time spent researching, drafting, and reviewing solicitor opinions.**

**Response:** The Bureau of Indian Affairs (BIA) does not draft or issue Solicitor Opinions as that is the role and responsibility of the Office of the Solicitor. The BIA may spend a minimal amount of time researching previously issued solicitor opinions and coordinates with the Regional Solicitor's office to verify if any previous opinions have been issued.

**Question 2: How many leases has the Department approved under the Long-Term Leasing Act for a tribe that had 99-year lease authority over:**

**a. the past 5 years?**

**Response:** From 2019-2023, the Department has approved 148 leases under the Long-Term Leasing Act with leasing terms of 99-years.

**b. the past 10 years?**

**Response:** From 2014-2023, the Department has approved 324 leases under the Long-Term Leasing Act with leasing terms of 99-years.

**c. Please estimate the average length of time it takes a lease under the above authority to be approved or denied by the Department once it is submitted for approval by the Secretary.**

**Response:** The Department's streamlined leasing process focuses on expediting lease applications involving trust tracts with identified individual Indians or entitled Tribes with sole ownership, and those lease applications are often approved within our goal of 45 days. For leases

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with complicated ownership status, particularly in highly fractionated areas, approval timelines can reach beyond 120 days or more.

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**Question from Ranking Member Grijalva**

**Question 1: Could you provide to the Committee examples of the “unintended consequences” in the case law related to the Non-Intercourse Act that may arise under the passage of H.R. 1532, *To authorize any Indian Tribe to lease, sell, convey, warrant, or otherwise transfer real property to which that Indian Tribe holds fee title without the consent of the Federal Government, and for other purposes.***

**Response:** Individual Indian Tribes have various and unique types of land tenure, and federal courts have developed a significant amount of case law interpreting the Indian Non-Intercourse Act. Given the unique nature of this case law for each Tribe, it is difficult to provide examples of unintended consequences that may arise due to the passage of H.R. 1532. Where Tribes own fee lands subject to restrictions on alienation, that restriction can also have a protective effect. To the extent that this legislation removes restrictions on alienation, it may also remove protections relied upon by Tribes.