



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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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 June 7, 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 on Indian and Insular Affairs

Legislative Hearing on H.R. 630, H.R. 1240, H.R. 1722, H.R. 2461, H.R. 2839, and H.R. 3371

June 7, 2023

Questions from Chairman Westerman

Question 1: Is the current statutory language that extinguishes all Grand Ronde land claims in the state of Oregon unique to them, or does that language exist in any other laws?

Response: Statutory language that extinguishes a Tribal Nation's land claims within a state does exist in other laws. For example, this language exists in the Alaska Native Claims Settlement Act (43 U.S.C. ch. 33), and statutes such as the Rhode Island Indian Land Claims Settlement Act (Pub. L. No. 95-395 (1978), 92 Stat. 813) and the Maine Indian Claims Settlement Act (Pub. L. No. 96-420 (1980), 94 Stat. 1785) extinguish Tribal claims within their respective states. The Massachusetts Indian Land Claims Settlement Act (Pub. L. No. 100-95 (1987), 101 Stat. 704) also included a broad extinguishment of claims of the Wampanoag Tribe of Gay Head.

Question 1(a): Are there other federally recognized tribes prevented from filing land claims against the United States?

Response: Yes, there are several federally recognized Tribes that are prevented from filing land claims against the United States. Another example is the Pueblo De San Ildefonso Claims Settlement Act of 2005 (Pub. L. No. 109-286, §2, Sep. 27, 2006). This bill extinguishes any claims to the land based on aboriginal title, Indian title, or recognized title and any other judicial relief in exchange for National Forest system lands. Although there are other pieces of legislation and statutes that extinguish claims, there is no comprehensive source that identifies each one.

Question 1(b): Are there certain land claims that cannot be brought against the United States because of other legislation, like the Indian Claims Settlement Act?

Response: Yes, there are certain land claims that cannot be brought against the United States because of various legislation, however the legislative language and limitations on claims that can be brought varies. For example, under the Alaska Native Claims Settlement Act, all claims against the United States, the State, and other persons based on aboriginal right, title, use, or occupancy or any pending claims are extinguished (Pub. L. 92-203, § 4, Dec. 18, 1971). The Pueblo De San Ildefonso Claims Settlement Act of 2005 (Pub. L. No. 109-286, § 2, Sep. 27, 2006) extinguishes claims not only based on aboriginal title, but also based on Indian title or recognized title. The Pueblo De San Ildefonso Claims Settlement Act also extinguishes any claims for damages, including administrative remedies, and any claim that could have been or was asserted in pending litigation. The restriction of certain claims varies and requires careful assessment of the language within each statute.

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Question 2: Regarding H.R. 2461, does the Department anticipate there will be a cost associated with this bill, or are funds already set aside for any services, considering the San Juan Southern Paiute are already a federally recognized tribe?

Response: The Department anticipates that there will be funded and unfunded costs associated with H.R. 2461. Costs associated with the access road feasibility study, processing of the land settlement permit, and water claims in Section 10(d) can be funded through discretionary appropriations. Costs that are unfunded include the Bureau of Land Management cadastral survey costs, new fencing costs, and the cultural resources survey costs for new fencing. In Section 10(g), the groundwater depletion accounting is also an unfunded annual cost.