

Committee on Natural Resources
Subcommittee on Indian and Insular Affairs
Legislative Hearing
1324 Longworth House Office Building
June 26, 2024
10:15 AM
Chairman Marshall Pierite QFR Responses

Questions from Rep. Westerman:

Q1. Your written testimony discussed the complicated history tribal nations can have with their neighboring localities. You also mentioned how your tribe has received support from the state of Louisiana and several local governments recognizing the benefit of the economic development the tribe has brought to the area.

- a. Can you expand on how your tribe was able to build and maintain these relationships?
- b. How can Congress help to promote congenial relationships?

Chairman Pierite:

1 (a). The Tunica-Biloxi Tribe has built strong working relationships with the state and local governments through many years of hard work to establish trust and an understanding of mutual respect. At every opportunity, we discuss and demonstrate how benefits to the Tribe result in benefits to our non-tribal neighbors. This has been a long journey which required tribal and non-tribal leaders to put aside the long history of injustice, forgive past wrongdoings and recognize the power of hope and healing.

1(b). Congress can do its part by protecting tribal governments from encroachment from state and local governments and recognizing the history of how tribes lost their land, while also extolling the virtues of tribal economic development for the benefits it brings to both tribal and non-tribal communities. The balance of power between tribes and their non-tribal neighbors has always been overwhelmingly skewed toward the non-tribal communities. Congress can provide the necessary backstop to appropriately balance these rights. Through this renewed justice, and the power of economic development, tribes can demonstrate mutual benefits which can then spawn a renewed and positive relationship. The good news is that we have seen this play out over the last 30+ years of tribal gaming. The old doubts and fears from the non-tribal community have proven to be largely unfounded and the benefits of tribal land ownership overwhelmingly positive for everyone. Passing H.R. 1208 would help in providing a pathway to these more positive relationships.

Q2. Are there lands your tribe is currently seeking to have taken into trust?

a. If so, how long has this process taken and have you seen any opposition to these applications?

Chairman Pierite:

2. Yes. The Tunica-Biloxi Tribe is continually working to regain the land that was illegally taken from us. We do so primarily by buying land from willing sellers and then working to have that land placed into trust by the federal government.

2(a). The timeline for the land to trust process has varied over the years for numerous reasons – mostly due to backlogs at the Department that occur when political decisions are made by various administrations to change the process, increase scrutiny, or reduce or delay funding for the offices within the department charged with advising the Secretary on specific land to trust determinations. We are pleased that the backlog has been considerably decreased and applications are now being processed in a more timely manner. At points in our recent history, it has taken many years in the process to gain trust approval. The Department’s new regulations are certain to further streamline the process.

Q3. Is there anything else you would like to add to your testimony on how the Department of the Interior’s fee-to-trust process could be reformed to benefit tribes and state and local governments?

Chairman Pierite:

3. It is important to note that when a tribe seeks to have the federal government take land into trust, the tribal government might or might not have immediate plans for the use of that land. Moreover, in much the same way that local governments operate, elected tribal governments might change their land use plans over time. Therefore, it should be recognized that the request from Mr. Rabbitt in his testimony to the Subcommittee on this point is largely unworkable. While it might be possible for tribal and non-tribal area governments to agree on a path forward for immediate land use planning, such agreements might not survive local or tribal elections and resulting changes in governing decisions. Land use negotiations between tribes and non-tribal governments, therefore, should not be used as a gateway for the federal government to make land to trust decisions that last in perpetuity. It is also important to note that when land was stolen from tribes (sometimes at the end of a gun barrel) tribes were not offered the same level of comment options as the current DOI regulations provide to local governments. That said, once justice is restored through tribal land re-acquisition, local and tribal governments *can and do* work together for their and mutual benefit.

Q4. The new 25 CFR Part 151 regulations governing lands into trust provide no geographic boundaries within which tribes can acquire trust lands, fails to include any requirement that a tribe have ancestral ties to the proposed trust land, eliminates the previous requirement that the Secretary use heightened scrutiny the further a tribe goes from its existing reservation to seek new

trust lands, and failed to include a consultation requirement with nearby tribes for any new trust land acquisitions.

a. Given this and that Louisiana has 4 federally recognized tribes, does the Tunica-Biloxi Tribe support the portions of the new regulations that eliminate the heightened scrutiny for applications that seek to acquire lands far from a tribe's existing reservation?

b. Would you want the Interior Secretary to be mandated to consult with you if any other tribe applies for trust lands within your ancestral territory in the State?

Chairman Pierite:

4(a). It is important to note that the land that was illegally taken from tribes is, in most cases, no longer accessible by tribes to be taken back into possession nor to be taken into trust. Much of what can be considered "tribal homelands" is now developed and might only be available for purchase in very small parcels if at all. So, in order for tribes to reestablish a meaningful land base, they must often look to areas that might not align to what was lost, say, in the 1800's or earlier. Moreover, federal policy has, over the last two hundred years, made a complete mess of tribal lands. Tribes have not only had their land stolen, but they have also been moved by force in groups, and their citizens have been incentivized under false pretense to move individually, often hundreds of miles away from their traditional homelands. The use of the term "ancestral homelands" is also problematic as it does not provide a specific timeframe for ancestry. Given that many tribal citizens were forced or coerced to leave their homes, do these "new" areas where they currently reside constitute "ancestral homelands" if they have now been there for 50 years, or 100 years? What happens in another 50 years once these families have been in those locations for 150 years or more. When is an area considered "ancestral?"

4(b). Of course, the Department should and does take into account the concerns of other tribes and state and local governments – especially when taking land into trust apart from an existing reservation. Tribes and local governments are provided an opportunity to raise concerns in the trust process. Moreover, as taking land into trust is a "major federal action" other laws apply including the National Historic Preservation Act which provides rights in the process for tribes to protect their sacred places on and off current reservation land.