



Quinault Indian Nation President Guy Capoeman response to Questions for the Record to the Subcommittee on Indian and Insular on the Tuesday, February 25, 2025 hearing titled, "Federal Indian Trust Asset Management: Progress Made But Improvement Needed."

- 1. Do you think the Bureau of Indian Affairs/Department of the Interior has done an adequate job in advertising and informing tribes about the Indian Trust Asset Reform Act (ITARA) Demonstration Program?**

No. Prior to the Intertribal Timber Council ("ITC") and individual Tribes pushing the Department of Interior ("DOI") and Bureau of Indian Affairs ("BIA") to implement the ITARA Title II Demonstration Project, the BIA showed little interest in implementing ITARA. At the 2017 ITC Timber Symposium, information was presented to Tribes about ITARA and a working group was established to facilitate dissemination of ITARA information to Tribes. On October 16, 2017, the ITC sent a letter (attached) to the DOI Secretary expressing concern that no action was being taken by the DOI to establish the Demonstration Project. The letter specifically requested that DOI initiate the ITARA consultation process with Tribes and establish the Demonstration Project immediately thereafter.

A year later, on October 01, 2018, the consultation process was completed, and the Demonstration Project was formally established by the Assistance Secretary of Indian Affairs ("ASIA") Tara Sweeney (attached). Similar to what occurred in the early days of implementation of the Indian Self-Determination Act (P.L. 93-638), which was furthered by Self-Governance Compacts, many within BIA failed to embrace, and some even resisted, implementation of ITARA, which would end federal domination and turn full control of forest management over to Tribes.

- a. How did the Quinault Indian Nation initially hear about the demonstration program?**

The Quinault Indian Nation ("QIN") initially heard of ITARA through membership and interaction with ITC.

- b. What should the DOI be required to do for advertising the program if it is reauthorized?**

Aggressively announce the opportunities under ITARA to all tribes with trust assets. Provide guidance and support to any tribe interested in a demonstration project under ITARA. Educate BIA staff that are resistant to new opportunities for tribes, like ITARA, that these are opportunities they should support and are required to support as employees of the federal government and because of the government's trust responsibility to tribes.

- 2. Please expand on the challenges the Quinault Indian Nation encountered when applying to participate in the demonstration program?**

As noted above, there was delay in the BIA determining how to move the ITARA demonstration project forward. QIN had questions that BIA could not answer or were not familiar with. Additionally, QIN staff and leadership wrestled with the advantages and disadvantages of entering the project. There was concern of how it might affect the funding to operate the project, as funding over the years to support QIN forestry management appeared static. Necessary information on the impacts ITARA would have was not provided to the tribe.

The following can provide some insight as to the difficulties of managing the Quinault Reservation landscape and thus an understanding of how QIN crafted the project.

The Quinault Indian Reservation was devastated by the Dawes Act through which approximately 190,000 acres of forested reservation was divided and broken into 2,340 allotments of 80 acres. QIN was left with virtually no land. Time, inheritance, and probates created multiple owners in single allotments with undivided interests. Sales or transfers of allotments or undivided interests in allotments out of trust and into fee status has created a matrix of land ownership on the reservation of mixed trust, tribal, and fee ownership of allotments. QIN has engaged in efforts since the mid-1970s to purchase or otherwise gain title to reservation lands whether they be in fee or trust status. To this end, QIN owns 100% in approximately 76,000 acres and has thousands of undivided interests, including undivided interest still in fee status.

Throughout the ITARA and demonstration project process, QIN asked several questions of the BIA as to what properties could be involved in the project. Questions were raised regarding various categories of allotments, including those where QIN holds a controlling interest, full interest split between trust and fee, majority trust interest with remaining interests held in fee, and situations where remaining trust owners seek to participate in the project. Additional inquiries addressed scenarios involving the division and management of interests in these allotments. When these and similar questions were presented to BIA and their solicitors, it became evident that their understanding was lacking, as they mistakenly believed fee undivided interest owners held greater control over management than they actually did, highlighting a broader disconnect among BIA high-level staff and their legal advisors.

Those familiar with land ownership issues on the Quinault Reservation recognize that its circumstances are particularly complex and challenging, particularly due to its predominantly forested landscape. The delay in receiving reliable answers from BIA contributed to further setbacks

Due to limited guidance on what would be acceptable in a demonstration project, QIN initially focused on including only 100% owned property in the project. The request letter detailing the project specifics required careful wording to gain approval, with minimal assistance provided and some back-and-forth necessary to refine the language to a standard that was acceptable to the agency.

Progress was also delayed due to insufficient federal funding to support the hiring of QIN staff to guide the project through the process. Key positions remained vacant as a result of inadequate funding for the Forestry program on the Reservation, and despite QIN successfully returning over 40,000 acres from fee to trust status, no additional federal funding has been allocated for managing those lands, further straining existing resources.

a. How can Congress better address these issues?

QIN does not have suggestions responsive to this question.

3. In your written testimony, you acknowledged that it took over two years before the Bureau of Indian Affairs provided the approval needed for Quinault to proceed with developing the

Indian Trust Asset Management Plan or Project (ITAMP). What caused the significant delay in approval?

As noted above, a lack of understanding of the land issues on the reservation and accurate answers to the questions posed by QIN. Additionally, there seemed no template as to how to deal with the large project QIN was pursuing. There had been a couple of much smaller reservations also entering the demonstration project, but not with the complications QIN presented. The BIA appeared to struggle with providing answers, navigating the process, and delivering the necessary follow-through to support the project as Congress had anticipated.

a. Where do you see any opportunity to reduce bureaucratic red tape to expedite that process?

Currently, approval of a tribal demonstration project appears to lie with ASIA. Delegating approval to BIA staff more familiar with specific reservation trust assets and needs would improve the process. Currently there is delegation to Agency superintendents to approve many types of actions such as land sales, timber sales, etc. Developing guidelines for approval so that BIA and tribal staff are familiar with processes would be beneficial for more efficient development of and approval for the demonstration project. Otherwise, all are walking down an unknown pathway.

Possibly forming a specific task force to help guide and support tribes through the process of applying for and developing their demonstration project. Currently it seems there is an absence of help from BIA in how to navigate this process. It is understood there would be reluctance on the part of BIA to encourage tribes to manage their own assets as this was BIA's responsibility and control for the last several decades and it appears difficult for some in BIA to release. But that is the purpose of ITARA, to empower Tribes with greater autonomy and the ability to enhance self-governance in areas where they are best positioned to take the lead.

4. In your written testimony, you stated that Quinault formally expressed its interest in participating in the ITARA demonstration program on September 24, 2021. Yet, Quinault is still not actively participating in the ITARA Demonstration Program. Could you provide further details as to what has delayed the finalization of Quinault's ITAMP?

Navigating the uncertain process of advancing the project required QIN to hire a consultant experienced in guiding other Tribes through their demonstration projects. Securing funding for the consultant proved challenging, as BIA withheld funding until the project received their approval. BIA demonstrated reluctance in supporting QIN's efforts, with one instance where an individual firmly opposed providing funding due to their lack of support for ITARA. Due to this reluctance, QIN allocated initial funding to begin the process. Months after approval, BIA provided funding to develop and submit the project, which is now in the draft development phase. That said, legal and interpretive challenges remain to be addressed.

a. How has the Bureau of Indian Affairs/Department of Interior stalled that project specifically?

Mostly by not having a clear path forward nor providing guidance on getting through their internal issues. It has been a bit of a trial-and-error process at this point with the need to interact with the BIA Central Office rather than the local BIA authorities who have a better understanding of the reservation issues, but not of the demonstration project process. As mentioned in prior questions, there is an issue of some BIA staff not wanting to support ITARA and ITAMP projects, and often seemingly to work actively against these projects.

5. In your testimony, you offered the suggestion of reducing the Bureau of Indian Affairs' role in forestry management. Please elaborate further as to how the Bureau of Indian Affairs' role should be reduced.

With over 80% of Tribal trust forest lands now being partially or fully managed under P.L. 93-638 program contracts or compacts (IFMAT IV Report) and with three Tribes now assuming complete authority under approved ITARA/ITAMPs, the role of the BIA needs to shift from exercising control and approval authority over forest management activities to facilitating advancement of Tribal self-determination and self-governance. Much of the current BIA focus is on issuance of updated manuals and handbooks pertinent to direct BIA operations of forestry programs. An internal BIA working group is initiating the process for revision of the 25CFR 163 forestry regulations. Self-governance needs to be the overarching framework of this work on updating BIA's role and authorities. The BIA's role of exercising control and approval authority over forest management operations needs to be reduced and redirected to greater or full carrying out of forest management activities under ITARA. Given the transition from BIA direct operations to Tribal self-governance and complete Tribal authority through ITARA, the statute for Indian Forestry (NIFRMA) needs to be reviewed for relevance to current conditions (IFMAT IV report).

As tribes take on more responsibility in management of their resources, the BIA role should transition to more of a support and advisement role where needed and to ensure federal regulations are followed. This as oppose to controlling and dictating management processes to tribes wanting more control over their assets. This could include advisement or help in setting up timber sales, helping in forest road construction, guidance in resource inventory, managing rangelands, advising on leasing, etc. with specialized "strike teams" for technical assistance.

It is also necessary to provide funding to tribes from funds currently utilized by the BIA and broader federal government to support the actions the Tribes are now taking responsibility for.

With the current movement to reduce federal employees, it becomes more important for tribes to control management of their own trust assets. ITARA allows activities to be authorized by tribes rather than BIA officials, which can delay actions at times, particularly with government shutdowns.