

**FEDERAL INDIAN TRUST ASSET
MANAGEMENT: PROGRESS MADE
BUT IMPROVEMENT NEEDED**

OVERSIGHT HEARING

BEFORE THE
SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS
OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

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HOUSE COMMITTEE ON
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Date: February 24, 2025

Subject: Oversight Hearing titled *"Federal Indian Trust Asset Management: Progress Made But Improvement Needed"*

The Subcommittee on Indian and Insular Affairs will hold an oversight hearing titled *"Federal Indian Trust Asset Management: Progress Made But Improvement Needed"* on **Tuesday, February 25, 2025, at 2 p.m. in 1324 Longworth House Office Building.**

Member offices are requested to notify Haig Kadian (Haig.Kadian@mail.house.gov) by 4:30 p.m. (EST) on Monday, February 24, 2025, if their member intends to participate in the hearing.

I. KEY MESSAGES

- The federal government has a trust responsibility toward American Indians and Alaska Natives, including the stewardship of tribal lands and assets.
- In 2016, Congress enacted the Indian Trust Asset Reform Act (ITARA) to reaffirm the trust responsibility of the federal government while promoting tribal management of their own trust assets through the Indian Trust Management Demonstration Program (ITARA Demonstration Program).
- Since the enactment of ITARA, only two tribes have successfully completed the necessary steps to establish an Indian Trust Asset Management Plan or Project (ITAMP), and those ITAMPs only covered forest trust assets, in contravention of the intent of ITARA.
- The ITARA Demonstration Program authorization expires in 2026. As Congress considers the merits of reauthorizing the program, this hearing will examine the scope of the trust assets allowed to be included in an ITAMP and the bureaucratic red tape that has prohibited tribes from fully participating in this program.

II. WITNESSES

- **Mr. Glen Gobin**, Tribal Council Member, Tulalip Tribes, Tulalip, WA
- **Ms. Amber Schulz-Oliver**, Executive Director, Affiliated Tribes of Northwest Indians, Portland, OR
- **Mr. Cody Desautel**, President, Intertribal Timber Council, Portland, OR
- **The Hon. Guy Capoeman**, President, Quinault Indian Nation, Taholah, WA
[Minority witness]

III. BACKGROUND

This hearing will examine the impact of the Indian Trust Asset Reform Act (ITARA) and the Indian Trust Asset Management Demonstration Program (ITARA Demonstration Program), which is set to expire in 2026. Only a few tribes have submitted plans for the ITARA Demonstration Program since its creation 10 years ago, despite the intended purpose of granting tribes more direct authority to manage their trust assets.¹

Federal Trust Responsibility

Since the founding of the United States, the federal government has taken on a federal trust responsibility toward American Indians and Alaska Natives. The term “federal trust responsibility” is the “legal obligation under which the United States, through treaties, acts of Congress, and court decisions, ‘has charged itself with moral obligations of the highest responsibility and trust’ toward Tribes.”² This trust responsibility includes the obligation of the United States to steward lands and land assets for tribes and requires the federal government to, at some level, manage tribal trust lands.³

Federal policies pertaining to tribal lands have shifted dramatically throughout U.S. history. In the 1800s, as settlement moved westward, the United States negotiated treaties with tribes, subsequently creating Indian reservations. In the late 1800s, the United States pursued an assimilationist policy requiring allotment of reservation lands to individual tribal members, thereby removing these lands from traditional trust status and placing them into the hands of individuals.⁴ The Indian Reorganization Act (IRA) was enacted in 1934, which simultaneously ended the practice of allotment while granting the Secretary of the Interior (Secretary) the ability to take land into trust for the benefit of a Tribal nation.⁵

In the 1970s, the federal government transitioned to a policy of self-determination for tribes. In his July 8, 1970 message to Congress, President Nixon laid out the beginning of the self-determination policy, stating, “we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support.”⁶ In response, Congress enacted the Indian Self-Determination and Education Assistance Act (ISDEAA), which formed the statutory basis for tribes to contract and/or compact selected programs, functions, services, and activities (PFSAs).⁷ This law did not, however, remove the federal trust responsibility of the federal government, but did provide a statutory framework by which tribes could assume responsibility for operating programs traditionally provided for Indians by the federal government because of their status as Indians. Despite successes seen through ISDEAA, tribal assets remain largely in the managing hands of the federal government.

Trust Assets and Federal Management of Trust Assets

In 1994, the then-Associate Director of Financial Integrity Issues from the then-titled General Accounting Office (now the Government Accountability Office, or GAO), testified on the Department of the Interior’s (DOI) mismanagement of tribal trust assets. The testimony highlighted that trust asset ownership records were not up to date, there was inadequate management of natural resource assets, and weakness in the systems, policies, and procedures related to trust fund management.⁸ GAO also testified that DOI had failed to “consistently and prudently invest trust funds and pay interest to account holders.”⁹ The lack of accountability at DOI for tribal trust assets resulted in long-standing issues and legal liability related to tribal trust assets.

DOI attempted to address these issues through various approaches.¹⁰ However, these initiatives were undeveloped or duplicative and failed to address the root causes of these problems.¹¹ Recognizing that departmental initiatives were inadequate, Congress passed the American Indian Trust Fund Management Reform Act of 1994, which required the Secretary to discharge federal trust responsibilities properly, allow tribes to submit a plan to directly manage tribal funds held in trust by the United States, and established the Office of the Special Trustee for American Indians (OST).¹²

The OST was charged with overseeing and coordinating the reform efforts related to the federal trust responsibility toward American Indians.¹³ Having the OST report directly to the Secretary elevated the importance of trust asset management within the department.¹⁴ OST assumed full responsibility for tribal trust resources in 1996.¹⁵ Shortly after, Eloise Cobell, a member of the Blackfeet Nation, filed a class action lawsuit against the United States on behalf of 300,000 individual Indians over DOI’s management of individual Indian money accounts, which are held for the benefit of individual tribal members with trust assets.¹⁶ This lawsuit, known as *Cobell v. Salazar*, was ultimately settled by the Obama Administration

and brought about further trust asset reform.¹⁷ Despite the settlement, trust asset management concerns remained, leading Congress to evaluate if the federal government was adequately suited to manage tribal trust assets.

Indian Trust Asset Reform Act (ITARA) and Creation of the Bureau of Trust Funds Administration

Enacted in 2016, ITARA sought to reaffirm the federal trust responsibility to Indian tribes and encourage tribal self-determination regarding tribal trust assets.¹⁸ ITARA would achieve this in two ways: 1) allow tribes the opportunity to manage their own trust assets through a new demonstration program; and 2) reorganize where Indian trust assets are managed within the DOI.¹⁹

The ITARA Demonstration Program authorizes the Secretary to carry out ITAMPs with tribes that meet specific requirements. To participate in the demonstration program, tribes must submit an application, and after the Secretary approves the application, the tribe must submit an ITAMP that meets the statutory and regulatory requirements, including not violating federal statutes.²⁰ When tribes have more opportunity to manage tribal assets and pursue economic diversification, they generally have increased tribal revenue and created jobs for their communities.²¹

ITARA also reorganized the management of tribal trust assets, requiring the transition of OST functions to other bureaus or offices within the DOI.²² On October 1, 2020, the Bureau of Trust Funds Administration (BTFA) was established by secretarial order to take over the OST functions.²³ The creation of the BTFA aimed to consolidate the core functions carried out previously by the OST into an organized, indefinite “Trust Operations structure.”²⁴ The BTFA’s primary responsibility is to oversee and manage the financial trust assets of American Indians managed by the DOI.²⁵

ITARA required the Secretary to submit a report to Congress by June 2017 outlining a timeline and transition plan to terminate the OST.²⁶ However, to date, Interior has not provided Congress with this report.²⁷ The OST still technically exists, although as of this hearing, all full time positions have been vacant.²⁸

Indian Trust Asset Management Demonstration Program: Challenges and Room for Improvement

The original intent of ITARA was to allow tribes to enter into ITAMPs on a wide range of trust assets while relieving the federal government of any liability.²⁹ However, to date, DOI has limited its engagement with tribes to considering only the waiver of regulations under its purview, specifically those related to surface land and timber.³⁰ This limitation on what federal regulations can be waived through ITAMPs has hindered tribes’ ability to fully manage their trust assets and is counter to the intent of ITARA because trust assets are not defined as only surface land and timber within the statute. While the statute does not prescribe which assets may be included in an ITAMP, tribal assets are as varied as the tribes themselves and should not be arbitrarily limited. The Committee does intend to seek legislative solutions to ensure that tribes can more fully exercise greater determination to ensure the administration does not limit what trust assets may be included as part of an ITAMP.

In the nearly a decade since ITARA’s passage, only two tribes have successfully obtained ITAMP approvals.³¹ Other applications have stalled within DOI’s bureaucratic process, and tribes have been dissuaded from applying.³² One tribe described the ITAMP draft template as “lengthy, confusing, and [included] details that are not required by the ITARA law.”³³ Stakeholders have indicated that regional career staff at the Bureau of Indian Affairs (BIA) have pushed back on ITAMPs without any real explanation as to why tribes couldn’t manage their own trust assets.³⁴ The slow pace of ITAMP approvals raises concerns about the lack of administrative action and commitment to these tribal demonstration projects, as well as tribal self-determination.

Another concern surrounding the implementation of ITAMP is the lack of information provided to tribal entities about the program and its existence. Stakeholders have indicated that many tribes are unaware of the program’s existence and the opportunities it could offer a tribe.³⁵

Congress could consider adding a notice requirement to an ITARA Demonstration Program reauthorization, requiring the Secretary to notify tribes with trust assets of their ability to participate in the demonstration program.

Despite these challenges, ITAMPs have demonstrated success where implemented. For example, the Cow Creek Band of Umpqua Tribe of Indians entered into an ITAMP that “significantly enhanced [their] forest management and economic opportunities” by improving wildfire mitigation and overall forest health and giving

the tribe more opportunities to sell forest products in new and emerging markets.³⁶ The Coquille Indian Tribe had an approved ITAMP that allowed the tribe to remove bureaucratic red tape and manage its own land without requiring the federal government's permission.³⁷ These examples showcase the positive impacts ITAMPs provide tribes if implemented promptly and correctly.

With the ITAMP provisions of ITARA set to sunset in 2026,³⁸ Congress should consider whether to reauthorize the demonstration program and what improvements can be made to it. Given ITARA's goal of expanding tribal management of trust assets and the fact that only two projects have been approved, it is crucial to ensure that more tribes have access to this opportunity. A broader and more accessible ITAMP, as it was intended, would allow tribes to fully exercise their rights over trust assets and realize the potential benefits demonstrated by existing projects.

³⁶ Indian Trust Asset Reform Act, P.L. 114-178 (2016).

³⁷ Congressional Research Service, "Federal-Tribal Consultation: Background and Issues for Congress" Jun. 12, 2024. <https://crsreports.congress.gov/product/pdf/R/R48093>.

³⁸ Congressional Research Service, "Tribal Land and Ownership Statutes: Overview and Selected Issues for Congress" Jul. 21, 2021. <https://crsreports.congress.gov/product/pdf/R/R46647>.

³⁹ Id.

⁴⁰ Id.

⁴¹ President Richard Nixon, Special Message on Indian Affairs. 1970. <https://www.epa.gov/sites/default/files/2013-08/documents/president-nixon70.pdf>.

⁴² P.L. 93-638. (1975). The "638" part is also used as another name for self-determination contracting (638 contracting) and self-governance compacting (638 compacting). For more information on self-determination contracting and self-governance compacting, see Indian and Insular Affairs Subcommittee oversight hearing "Advancing Tribal Self-Determination: Examining Bureau of Indian Affairs' 638 Contracting," Mar. 6, 2024. Available at: <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=415607>.

⁴³ Statement of George H. Stalcup, Associate Director, Financial Integrity Issues, Accounting and Information Management Division of the U.S. Government Accounting Office, before the Sub. Cmte. on Environment, Energy, and Natural Resources, September 1994. <https://www.gao.gov/assets/aimd-94-110r.pdf>.

⁴⁴ Id.

⁴⁵ GAO Report, *Financial Management: Focused Leadership and Comprehensive Planning Can Improve Interior's Management of Indian Trust Funds*. Sept. 1994, p 16. <https://www.gao.gov/products/aimd-94-185>.

⁴⁶ House Report 103-778 at 14-15. <https://www.justice.gov/sites/default/files/jmd/legacy/2014/02/13/house-rept-103-778-1994.pdf>.

⁴⁷ P.L. 103-412 (1994).

⁴⁸ GAO Report, *Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services*. Apr. 27, 2023, GAO-23-105356 at 2, <https://www.gao.gov/assets/gao-23-105356.pdf>.

⁴⁹ Id. at Fig. 2, p 11.

⁵⁰ U.S. Department of the Interior. Secretarial Order No. 3197, Feb. 1996. <https://www.doi.gov/document-library/secretary-order/3197-establishment-of-office-special-trustee-american-indians-and>.

⁵¹ Congressional Research Service, "Tribal Land and Ownership Statutes: Overview and Selected Issues for Congress," July 21, 2021. <https://crsreports.congress.gov/product/pdf/R/R46647>.

⁵² P.L. 111-291, the Claims Resolution Act of 2010, and DOI, "Land Buy-Back Program for Tribal Nations," accessed Feb. 18, 2025, <https://www.doi.gov/buybackprogram>.

⁵³ P.L. 114-178 (2016); and House Report 114-432 at 10. <https://www.congress.gov/congressional-report/114th-congress/house-report/432/1>.

⁵⁴ P.L. 114-178, see Title II and Title III.

⁵⁵ U.S. Department of the Interior. Indian Affairs. *Indian Trust Asset Reform Act (ITARA)*. <https://www.bia.gov/service/itara>.

⁵⁶ Indian and Insular Affairs Subcommittee oversight hearing "Economic Diversification to Create Prosperous Tribal Economies," Feb. 15, 2024. Available at: <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=415536>.

⁵⁷ P.L. 114-178 – Section 304.

⁵⁸ U.S. Department of the Interior. Secretarial Order No. 3384, Aug. 2020.

<https://www.doi.gov/sites/doi.gov/files/sc-3384-signed-508-compliance.pdf>.

⁵⁹ Id.

⁶⁰ U.S. Department of the Interior. Indian Affairs. *Bureau of Trust Funds Administration*. <https://www.bia.gov/btfa>.

⁶¹ P.L. 114-178, Sec. 304.

⁶² There are conflicting viewpoints on whether the OST's termination requirements have been triggered or not. For more information on this matter, please see p. 21 of GAO Report. *Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services*. Apr. 2023. <https://www.gao.gov/products/gao-23-105356>.

⁶³ See fn. 40 on p. 21 of GAO Report. *Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services*. Apr. 2023. <https://www.gao.gov/products/gao-23-105356>.

²⁹ Brian Gunn, “Overview of the Indian Trust Asset Reform Act”, 2017 Annual Tribal Self-Governance Consultation Conference (April 25, 2017), <https://www.tribalsell.gov.org/wp-content/uploads/2017/05/Gunn-presentation-for-2017-Self-Governance-Conference.pdf>, slide 7.

³⁰ U.S. Department of Interior’s “Response to Tribal Comments on Establishment of the Indian Trust Asset Reform Act Demonstration Project,” 2018. On file with IIA Staff.

³¹ U.S. Department of Interior’s Bureau of Indian Affairs Press Release - *Assistant Secretary Sweeney Signs Coquille’s Indian Trust Asset Management Plan and Tribal Forestry Regulations*, (October 20, 2020), <https://www.bia.gov/as-ia/cpa/online-press-release/assistant-secretary-sweeney-signs-coquilles-indian-trust-asset-management> and U.S. Department of Interior’s Bureau of Indian Affairs Press Release - *Assistant Secretary Sweeney Signs Cow Creek Band of Umpqua Indians’ Indian Trust Asset Management Plan and Forestry Regulations*, (January 4, 2021), <https://www.bia.gov/news/assistant-secretary-sweeney-signs-cow-creek-band-umpqua-indians-indian-trust-asset-management>.

³² Confederated Tribes of the Colville Reservation comments on the Department of the Interior’s implementation of Title II of the Indian Trust Asset Reform Act. March 2018. On file with IIA Staff.

³³ House Natural Resources Committee correspondence with CRS on January 27, 2025.

³⁴ Briefing with Coquille tribe and Affiliated Northwest Indians with IIA Staff and Stakeholders. February 18, 2025.

³⁵ Id.

³⁶ Briefing Paper provided to IIA Staff from Cow Creek Tribe. *Expanding Tribal Forest Management: Lessons from the Indian Trust Asset Reform Act Demonstration Project*. Received on February 13, 2025.

³⁷ Briefing with Coquille tribe and Affiliated Northwest Indians with IIA Staff. February, 18, 2025.

³⁸ P.L. 114-178, Section 203(d).

OVERSIGHT HEARING ON FEDERAL INDIAN TRUST ASSET MANAGEMENT: PROGRESS MADE BUT IMPROVEMENT NEEDED

**Tuesday, February 25, 2025
U.S. House of Representatives
Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
Washington, D.C.**

The Subcommittee met, pursuant to notice, at 2:20 p.m., in Room 1324, Longworth House Office Building, Hon. Jeff Hurd [Chairman of the Subcommittee] presiding.

Present: Representatives Hurd, Walberg, Kennedy, Leger Fernández, Hoyle, Hernández, Randall, and Huffman.

Mr. HURD. The Subcommittee on Indian and Insular Affairs will come to order.

Without objection, the Chairman is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee is meeting today to hear testimony for an oversight hearing entitled, “Federal Indian Trust Asset Management: Progress Made But Improvement Needed.”

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. I therefore ask unanimous consent that all other Members’ opening statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I will now recognize myself for an opening statement.

STATEMENT OF THE HON. JEFF HURD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. HURD. Today, the Subcommittee meets for an oversight hearing titled, “Federal Indian Trust Asset Management: Progress Made But Improvement Needed.” Today’s hearing will continue the work of the Subcommittee to elevate tribal autonomy while reiterating the trust responsibility of the Federal Government towards American Indians and Alaska Natives.

The Federal trust responsibility is the legal obligation of the United States towards Tribes. This trust responsibility includes the stewardship of tribal lands and assets, but that responsibility has not always been properly managed. In the early 1990s the Department of the Interior’s mismanagement of tribal trust assets was exposed. Trust asset ownership was not up to date, natural resource assets were in disarray, and the weaknesses in the systems, policies, and procedures were highlighted. The United States had not lived up to its trust responsibility.

Recognizing that failure, Congress passed the American Indian Trust Fund Management Reform Act of 1994 in hopes of reforming

this broken system. However, this was not an all-encompassing fix, and shortly after, a major lawsuit was filed against the United States. In *Cobell v. Salazar* the Department of the Interior was accused of mismanaging individual Indian money accounts held for the benefit of tribal members with trust assets. The *Cobell v. Salazar* case was settled by the Obama administration, but the issue at its core was whether the Federal Government was the best manager of tribal assets.

With this line of thinking, Congress enacted the Indian Trust Asset Reform Act, or ITARA, in 2016 which reaffirmed the Federal trust responsibility while promoting tribal self-determination with trust assets. ITARA created a 10-year demonstration program that allowed Tribes to manage their own trust assets. That demonstration program is what we will focus on today. The original intent of the demonstration project was to allow Tribes to take control over a wide range of trust assets. Yet after 9 years only two Tribes have been able to enter into this program. This is unacceptable.

We will hear from multiple tribal witnesses today on why this program has not lived up to its full potential. I understand that some core issues are limited by which the Department of the Interior has placed the program, as well as bureaucratic red tape, a lack of awareness of the program, and a lengthy and confusing process. With the demonstration program set to expire in 2026, now is the time to identify where the barriers are and how we can overcome them. This Subcommittee has seen time and time again how much better suited Tribes are to manage their own programs and assets. This is one of those cases.

I want to thank all of our tribal witnesses for traveling here today to speak in person on this important issue, and I look forward to a robust discussion.

The Chairman now recognizes the Ranking Minority Member for any statement.

STATEMENT OF THE HON. TERESA LEGER FERNÁNDEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Ms. LEGER FERNÁNDEZ. Thank you, Mr. Chairman, and good afternoon to each of our witnesses, and thank you for traveling all the way to Washington, D.C. to share with us your experiences, your expectations, and your frustrations.

The Indian Trust Asset Reform Act that we are going to talk about today really goes at the core of what we should be doing in the Federal Government, which is giving back to the Tribes what they always deserved and had before we, the Federal Government, kind of stepped in and messed it up, right?

You knew how to manage your lands. You managed them for centuries. And tribal management of forest land has been recognized over and over as some of the best.

I happen to represent the Jicarilla Apache Nation for several decades. You all are nodding your head because you know they have a great forest management program. We actually defended them in court when the State wanted to come in and say you are not allowed to do that, and the judge said, wait a minute, we should

learn some lessons from what they are doing. The Mescalero Apache Tribe in New Mexico are renowned for forest work.

And so, what this program was supposed to do was to give that authority back to you. But there have been many frustrations. But the concept of making sure that you have that authority, I think, is what we see reflected in the report that says we should make it permanent but let's fix some of the problems. And that is what you are going to share with us today. Because it should not take 4 years to get a plan approved and implemented, which is one of the things that we have heard and we will hear today.

But imagine how long it will take if the people who are necessary to approve that no longer sit on a desk. And sadly, we will have to talk about that today because over 2,000 Department of the Interior staff have been fired, terminated, or maybe they have just retired and there is no intent to replace them.

At one college in my beautiful State, 20 percent of their employees were laid off, said, "Go home." Some of them who had been teaching for years, they were taken out of their classroom and now those students don't know if they don't have a professor to teach the course that is required for them to get their degree. How will they graduate?

So this is also an issue that we will need to address is how do we actually provide the resources so that the department that needs to give you the authority can indeed do so.

I am disappointed that no one from the Trump administration or the BIA is testifying before us so that we can raise concerns directly. This is a Republican Administration. This is a Republican-led Committee, and I am very grateful to our Subcommittee Chair for the work he does and the concern he brings to this, but these are the kinds of concerns that we cannot ignore.

But the principle that we are going to talk about today and that you are carrying out I am completely committed to. And so I am grateful that we are having this oversight hearing before the Act expires so we can determine what do we need to do to improve it, and then to actually fund it so that those 55 million acres of tribal land in the United States, and 19 million of which are forested in 33 different States can be managed by the Tribes under the principle of self-government and under the principle that the trust responsibility should be transformed to say that we trust you because you know your land, your history, your people, and your cultures better than anybody in Washington, D.C.

But we need to make sure that the funding flows, together with that trust. And so addressing that under-funding and that staffing, I think, is a really important part of this puzzle that we will work on together.

And with that, Mr. Chairman, I yield back.

Mr. HURD. Thank you very much, Ranking Member Leger Fernández. The Chair will now recognize the Ranking Member of the Full Committee, the gentleman from California, for an opening statement.

Mr. Huffman.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Thank you, Mr. Chairman, and I am glad that you and the Ranking Member are having this hearing. It is important to take a look at this law, ITARA, which strengthens tribal self-governance by empowering Tribes to exercise greater control and management of their land and resources.

And so this demonstration project that we will be hearing about today, under title 2 of that law was intended to allow Tribes to voluntarily submit trust asset management plans to assume control over forest management and/or surface leasing activities on their trust lands. And then, once approved, these plans permit Tribes to implement management approaches that align with their environmental, economic, and cultural priorities.

And with that law having been enacted in 2016 and getting set to run its course, it is a very good time, after nearly a decade of implementation, to take a look at assessing the demonstration project's impact. And our witnesses here today will provide us invaluable insights into that, into the successes and the challenges of the demonstration projects so that we can evaluate its effectiveness and some future direction.

Recent testimony before the Subcommittee emphasized the importance of the demonstration project, and also the—2023 Indian Forest Management Assessment Team, which gave a report that underscored ITARA's significance while highlighting the ongoing challenges in tribal forestry and resource management.

One finding from the report that stands out and is particularly relevant to today's discussion is that many Tribes still don't know about ITARA. So the report recommends extending the ITARA demonstration project indefinitely, a recommendation that I look forward to hearing more about from our witnesses.

And although the law initially set the demonstration projects duration at 10 years, it includes a provision that allows for an extension at the Secretary's discretion. I am disappointed that the majority chose not to include the BIA in this hearing because it would have been good to hear from them about all of this. I believe it is critical that the agency be present in this discussion, and by not inviting them we limit our ability to address the challenges faced at the administrative level and hinder the opportunities for an open dialog between the Subcommittee, the BIA, and the witnesses and stakeholders.

I would also be remiss not to mention the recent termination of thousands of Federal workers across various agencies, including the BIA. The BIA already struggles with limited funding and personnel to effectively carry out its responsibilities, and these workforce reductions raise serious concerns about the long-term viability of programs like ITARA. These terminations will have lasting consequences, further limiting the agency's ability to support tribal nations and implement critical programs. Reports indicate that up to 118 BIA employees were expected to be terminated, although the exact number remains unclear.

If key positions remain unfilled and essential services are understaffed or under-staffed, the BIA will continue to under-perform, ultimately hurting Indian Country. So as we move forward I do

hope this Subcommittee will remain committed to advocating for the BIA and Tribes to have the staffing, resources, and the funding necessary to support tribal nations and their citizens.

Thanks again, Mr. Chairman, for this hearing, and I yield back.

Mr. HURD. Thank you very much, Ranking Member Huffman. It is now my pleasure to introduce the witnesses for our panel.

The first is Mr. Glen Gobin, Tulalip Tribal Council of the Tulalip Tribes in Tulalip, Washington. Welcome.

Next is Mr. Cody Desautel, President of the Intertribal Timber Council in Portland, Oregon. Welcome, Mr. Desautel.

And now I would like to recognize Ms. Randall from Washington for 1 minute to introduce the witness from her district.

Ms. Randall.

Ms. RANDALL. Thank you so much, Mr. Chair, and thank you to Mr. Gobin from Tulalip for joining us, as well as President Capoeman. We so appreciate you taking the time and effort to journey across the country. I know firsthand how hard it can be, making this trip back and forth every weekend.

I have really enjoyed working alongside President Capoeman as a member of the State legislature, and look forward to a continued relationship.

President Guy Capoeman is the President of the Quinault Business Committee, the elected legislative body of the Quinault Indian Nation, a nation located on 208,000 acres in the southwestern corner of the Olympic Peninsula, cradled between the snowcapped Olympic Mountains and the northern Pacific Ocean. It is a beautiful place with Roosevelt elk, black bear, black-tailed deer, bald eagles, cougar, and many other animals.

And Mr. Capoeman has served on the council for 15 years in many positions and is also, fun fact, an incredible artist and carver of a 34-foot ocean-going cedar canoe not too long ago in his studio, and a 15-foot carved cedar statue, "Our Fisherman, Our Guardian," that the town of Gig Harbor is very lucky to host at a historic village site of the Sk'wapad Band of the Puyallup Tribe.

And I am grateful for his leadership and so glad to have him here today.

Mr. HURD. Thank you, Ms. Randall.

And finally, last but not least, Ms. Amber Schulz-Oliver, Executive Director of the Affiliated Tribes of Northwest Indians, also in Portland, Oregon. Welcome.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the "talk" button on the microphone.

We do use timing lights. When you begin, the light will turn green. When you have 1 minute left, the light will turn yellow. And at the end of the 5 minutes, the light will turn red, and I will ask you to please complete your statement.

I will also allow all witnesses on the panel to testify before Member questioning.

The Chairman now recognizes Chair Gobin for 5 minutes.

Chair Gobin.

**STATEMENT OF GLEN GOBIN, TRIBAL COUNCIL MEMBER,
TULALIP TRIBES, TULALIP, WASHINGTON**

Mr. GOBIN. Good afternoon, Chairman Hurd, Ranking Member Leger Fernández, and members of the Subcommittee. My name is Glen Gobin. My traditional name is Te Chut. And I serve on the Tulalip Tribal Council. On behalf of the Tulalip Tribe, we thank you for the opportunity to testify today on Indian trust asset management. My testimony will focus on Tulalip's experience in trying to utilize the Indian Trust Asset Reform Act, ITARA.

ITARA was signed into law in 2016. The Act streamlines the process of Indian trust resource management, strengthening tribal sovereignty and furthering tribal self-determination. Title 2 of the Act allows the Secretary of the Interior to enter into an Indian Trust Asset Management Plan, and requires the Tribe to identify the Indian Trust asset that will be subject to the plan. Once approved, the plan allows the Tribe to direct how they want their trust assets managed.

In March 2019 Tulalip Tribe sent a tribal resolution and letter to the Department requesting to participate in this demonstration project. Tulalip identified its reservation tidelands. Tulalip Tribes has jurisdiction to manage and regulate the reservation tidelands and its use under the Treaty of Point Elliott by executive order and tribal constitution. The treaty and executive order established and set aside and reserved for the benefit of the Tulalip people the Tulalip Indian Reservation which included the tidelands to the extreme low tide as the permanent homeland for a seafaring and fishing Tribe.

The shoreline is where many ancestral settlements and burial sites are located, and where tribal fishing, gathering, and cultural activities, as well as recreation continue today. The protection and management of the reservation tidelands by the Tribe is both necessary and indispensable to protect and preserve and use of the homeland for our treaty fishing rights.

Fishing shellfish resources are a vital component to the economy, culture, subsistence, and identity to the Tulalip people. The right to harvest these resources is secured for the exclusive use of the Tribe under the Treaty of Point Elliott, as confirmed in *U.S. v. Washington*. The tidelands provide essential habitat and food for these tribal resources, and protection of these tidelands is essential to preserve, benefiting future generations of the tribal people.

Today the shoreline is studded with marinas, parking lots, public buildings, houses, cabins, docks, bulkheads, and beach access stairways, causing increased beach erosion, loss of beach sediment, and loss of beach vegetation, causing negative impacts to fish and shellfish resources. We have had several meetings with the Department discussing the tidelands. At their request, we provided information regarding the location of the tidelands, ongoing asset and resource management on the tidelands, and surface lease information of the tidelands.

Ultimately, we were told in unambiguous terms that ITARA demonstration project was limited to forestry resource and surface leases. The law, however, does not limit what trust assets are subject to the plan, and there is no language in the bill that would support limited or narrow reading of the scope of trust resources.

Tulalip renewed its efforts to enter into an ITAMP in 2023, this time with a new administration. The Department told us to send a draft plan, and that they would review it and determine whether the tidelands would qualify as an Indian trust asset pursuant to the law.

Separately, we have heard from others that the Department is continuing to make the same determination as prior administrations, and limiting the plan to forestry resources. While the Tribe will continue to manage its tidelands in cooperation with the Department, it would prefer to include the tidelands in a trust management plan to better achieve the Tribe's management objectives. The Department's narrow and unfounded interpretation of ITARA, however, is frustrating this effort.

To avoid further confusion and misinterpretation of the law, we recommend Congress amend ITARA to remove these roadblocks and make demonstration projects permanent.

We thank you for the opportunity to provide testimony on this critical matter for Indian Country.

[The prepared statement of Mr. Gobin follows:]

PREPARED STATEMENT OF GLEN GOBIN, TULALIP TRIBES TRIBAL COUNCIL

Good afternoon, Chairman Hurd, Ranking Member Leger Fernández, and members of the Subcommittee. My name is Glen Gobin, Tulalip Tribes Tribal Council. On behalf of the Tulalip Tribes, we thank you for this opportunity to testify today on Indian trust asset management. My testimony will focus on the Tulalip's experience in trying to utilize the Indian Trust Asset Reform Act (ITARA or the "Act").

The Tulalip Tribes is the successor in interest to the Snohomish, Snoqualmie, and Skykomish people and allied bands signatory to the Treaty of Point Elliott of 1855. Within the Treaty, our ancestors reserved the right to fish at all usual and accustomed grounds and stations and to hunt and gather upon all open and unclaimed lands. The United States holds a trust responsibility to protect the Tribes' rights and interests as reserved in the treaty. The Tulalip membership continues to exercise these rights today. We are a fishing people. Fishing has sustained us culturally and economically as it has since time immemorial.

The Tulalip community is on a 22,000-acre Reservation bordering the Interstate 5 corridor, 35 miles north of Seattle. The Tulalip Tribes membership consists of approximately 5,500 members with approximately 2,800 living on the reservation. Today, forty percent of the Tulalip Indian reservation is in non-Indian fee status due to the history of the General Allotment Act and over 10,000 non-Indian residents live on the reservation. The geographic location of the Tulalip Indian reservation, the non-Indian resident count, combined with the Tribal economic development created by the Tribes draws thousands of daily visitors.

ITARA was signed into law in 2016. The Act streamlines the process of Indian trust resource management, strengthening Tribal sovereignty and furthering Tribal self-determination. Title II of Act allows the Secretary of the Interior to enter into Indian Trust Asset Management Plans (ITAMPs) with Indian tribes. Once approved, ITAMPs allow tribes to direct how they want their Indian trust assets to be managed.

Section 203(a) of ITARA requires interested tribes to submit application materials, including a tribal resolution. If the Department accepts a tribe's application and allows it to participate in the demonstration project, the tribe can then submit a proposed ITAMP for the Secretary's consideration. Section 204(a)(2) of ITARA requires proposed ITAMPs to identify the Indian trust asset(s) that will be subject to the plan, in addition to other information.

In March of 2019, the Tulalip Tribes sent a tribal resolution and letter to the Department requesting to participate in the demonstration project, per the requirements of Section 203(a) of the Act. Tulalip identified the Tulalip tidelands located on the Puget sound shoreline as the Indian trust asset to be subject to the plan. The Tulalip tidelands are all tidelands within the reservation lying above the line of extreme low tide, and are reserved for the use and benefit of the Tribes.

The Tulalip Tribes has jurisdiction to manage and regulate Reservation tidelands use by reason of the Treaty of Point Elliott, 12 Stat. 927, the Executive Order of

December 23, 1873, and the Tribal Constitution. The treaty and executive order established and set aside the Tulalip Indian Reservation as a homeland for a seafaring and fishing tribe. The protection and management of the Reservation tidelands by the Tribes is both necessary and indispensable to protect and preserve the use of the homeland for such purposes as well as the Tribes' treaty fishing rights, political integrity, economic security, and health and welfare of its members. The Tribe utilizes portions of 638 self-governance funding to manage and protect the tidelands.

We had several meetings with the Department discussing the tidelands where upon request we provided information to the Department regarding the location of the tidelands, ongoing asset and resource management on the tidelands, and surface lease information of the Tidelands.

The Puget Sound shoreline is one of the most important physical features of the Tulalip Reservation to the Tulalip Tribes its members, and non-tribal residents. The shoreline is where many ancestral settlements and burial sites are located and where tribal fishing, gathering, cultural activities, and recreation continue to this day.

The Tulalip people have depended on the shoreline to such an extent that the tidelands were not allotted to individual Tribal members by the Federal government and the tidelands, together with all of Tulalip Bay, are reserved for the use and benefit of the Tribes. Unfortunately, much development has occurred along the Reservation shoreline over the years. Today, the shoreline is studded with marinas, parking lots, public buildings, houses, cabins, docks, bulkheads, and beach access stairways, causing negative impact on shorelines on the Reservation and throughout Puget Sound.

Fish and shellfish resources are of vital importance to the economy, culture, subsistence, and identity of the Tulalip people. The right to harvest these resources is secured for the exclusive use of the Tribes under the Treaty of Point Elliott as confirmed in *U.S. v. Washington*. The tidelands provide essential habitat and food for these Tribal resources and protection of these tidelands is essential to preserve the use of the Reservation as a homeland for the Tulalip people and preserve its use for treaty fishing activities.

The impacts of bulkheads are of concern. Their negative impacts to fish and shellfish resources and their habitat are well-documented and include increased beach erosion, loss of beach sediments, and lowering of the beach due to the reflection of wave energy off of hard bulkheads back onto the beach, Beach starvation," which is the loss of beach sand and sediment that occurs when bulkheads block the supply of sediment that erodes from the bluff. The fine sediments tend to be lost, which means less habitat for the creatures that are prey for juvenile fish, and loss of plants and shade, which are important to fish habitat, as bank vegetation is removed when bulkheads are built.

Water quality has decreased dramatically as pollutants make their way into Puget Sound from roads, homes, parking lots, septic systems and other forms of development. Fish populations, including salmon, herring, bottom fish, and many others, have declined. Shellfish beds have been closed for public health reasons. Tribal fish and shellfish resources and habitat have been severely degraded by the numerous bulkheads and other physical alterations to the shoreline. Docks, pilings and buoys have interfered with Tribal net fisheries. Information from the Tulalip Natural Resources Department shows that there are approximately 73 docks and piers and 124 mooring buoys along the Reservation shoreline while there are less than 15 private docks and buoys along the rest of Snohomish County's shoreline, excluding Everett. Many of these private structures and uses are on Tribally owned tidelands without permission or compensation to the Tribes. The Tribes and its members are increasingly prevented from gaining access to the tidelands reserved for their use.

By Tribal code, the Tulalip Tribes regulates bulkheads, docks, stairways, and other shoreline structures, however, the Tribe has not been satisfied that it adequately addresses the impacts of shoreline development stated above. There have been ongoing demands by several departments to revise or expand the Tribes' requirements. It has also been pointed out that there are several feasible alternatives to bulkheads including vegetation management, drainage and ground water control, replenishing scoured beaches with sand, and anchoring drift logs to the beach. Additionally, the Tribe has expressed concern over the need to protect Tribal property interests by requiring leases for private structures constructed on Tribal tidelands. While in the past, Tribal tidelands were leased to private parties for a variety of uses, this practice has fallen out of use. Now there are numerous private structures located on Tribal tidelands that are not currently, or may have never been, leased from the Tribes.

After several meetings with representatives from the Department of the Interior, we were told in unambiguous terms that the ITARA demonstration project was limited to forestry resources and surface leases. The law does not limit what “trust assets” are subject to the plan and there is no language in the bill that would support a limited or narrow reading of the scope of trust resources.

Tulalip renewed its efforts to enter into an ITAMP in 2023, this time with a new Administration. The Department told us to send a draft plan and that they would review it and determine whether the tidelands would qualify as an Indian trust asset pursuant to the law. Separately, we heard that the Department was making the same determination as the prior administration and limiting the plan to forestry resources.

Under a “plain reading of the law” doctrine, a statute must be based solely on the literal meaning of the words used, without needing to consider additional context or interpretations. Here, the law is clear and does not allow for multiple interpretations of what an Indian trust asset is. Instead, the Department is turning the plain meaning rule on its head and unilaterally limiting the scope of Title II and frustrating tribes’ efforts to include non-forestry resources in ITAMPs.

While the Tribe will continue to manage its tidelands in cooperation with the Department, it would prefer to include the tidelands in a Trust Asset Management Plan to better achieve the Tribe’s management objectives. The Department’s narrow and unfounded interpretation of ITARA, however, is frustrating this effort.

To avoid further confusion and misinterpretation of the law, we recommend that Congress amend ITARA to remove these roadblocks and make the demonstration project permanent.

We thank you for the opportunity to provide testimony on this critical matter for Indian Country.

QUESTIONS SUBMITTED FOR THE RECORD TO GLEN GOBIN, COUNCIL MEMBER,
TULALIP TRIBES, TULALIP, WA

Questions Submitted by Representative Westerman

Question 1. As the Indian Trust Asset Reform Act (ITARA) was enacted in 2016, the included demonstration project is set to expire in 2026. Should the demonstration program be reauthorized, if yes, please explain why.

Answer. Yes. ITARA streamlines the process of Indian trust resource management, strengthening Tribal sovereignty and furthering Tribal self-determination by giving Tribes greater control over their trust assets, specifically, the Tulalip Tidelands. The protection and management of the Reservation tidelands by the Tribes is both necessary and indispensable to protect and preserve the use of the homeland for our treaty fishing rights. Fish and shellfish resources are of vital importance to the economy, culture, subsistence, and identity of the Tulalip people. The right to harvest these resources is secured for the exclusive use of the Tribes under the Treaty of Point Elliott as confirmed in *U.S. v. Washington*. The tidelands provide essential habitat and food for these Tribal resources and protection of these tidelands is essential to preserve, benefiting future generations of the Tulalip people. The ITARA demonstration would streamline and support the Tulalip Tribes management of its tidelands.

Question 2. As discussed during the hearing, the Bureau of Indian Affairs/Department of the Interior have provided a narrow scope for what trust assets may be included in the demonstration program. How would you address this concern?

2a) Would you be willing to work with my committee staff on language that would clarify this if reauthorization were pursued?

Answer. Yes. The Tulalip Tribes stands ready to assist and can provide suggested language to reinforce the intent of the ITARA demonstration program.

Question 3. Stakeholders have argued that the demonstration program was not properly advertised throughout the country. What should the DOI be required to do for advertising the program if it is reauthorized?

3a) Please detail how Tulalip initially heard about the demonstration program.

Answer. The Department of the Interior should list the consultation on website at www.bia.gov which has a drop-down option that lists all upcoming consultations.

This was created after this law was created. Also, a Dear Tribal Leader letter should be sent with multiple consultation dates.

Question 4. Please expand on the challenges the Tulalip Tribe encountered when applying to participate in the demonstration program?

4a) How can Congress better address these issues?

Answer. In 2017, the Tulalip Tribes had several meetings with the Department discussing the tidelands and at their request we provided information regarding the location of the tidelands, ongoing asset and resource management on the tidelands, and surface lease information of the Tidelands. Ultimately, we were told in unambiguous terms that the ITARA demonstration project was limited to forestry resources and surface leases. The law however does not limit what “trust assets” are subject to the plan and there is no language in the bill that would support a limited or narrow reading of the scope of trust resources. Tulalip renewed its efforts to enter into an ITAMP in 2023, this time with a new Administration but again, was not successful.

Question 5. Your written statement highlighted the Treaty of Point Elliot affirmed under U.S. v. Washington, which provided that the Tulalip people have the right to harvest fish and shellfish resources found on their reservation tidelands. What challenges have you personally seen on your tidelands over the years?

Answer. There has certainly been a loss of access to the shoreline, so we are prevented from fishing on higher tides. Also, the tidelands are being blocked by bulkheads, marinas, parking lots, public buildings, houses, cabins, docks, bulkheads, and beach access stairways, causing loss of ground fish and crab. And we have lost our ability to fish in our traditional fishing areas because of the installation of unpermitted mooring buoys on our reservation tidelands.

Mr. HURD. Thank you very much, Chair Gobin, for that testimony. The Chairman now recognizes President Desautel for 5 minutes.

Mr. DESAUTEL.

**STATEMENT OF CODY DESAUTEL, PRESIDENT, INTERTRIBAL
TIMBER COUNCIL, PORTLAND, OREGON**

Mr. DESAUTEL. Thank you, Chairman Hurd and members of the Committee. My name is Cody Desautel, and I serve as the President of the Intertribal Timber Council. I will focus my comments on timber assets and the forest planning provisions of the Indian Trust Asset Reform Act.

Ten years ago, the ITC supported the Indian Trust Asset Reform Act, particularly the demonstration project of title 2. The intent was to allow Tribes greater control in the management of their natural resources. Public law 114–178 authorized the ITARA Demonstration Project for 10 years from its enactment in June 2016. Given the extensive time it took to approve the first project, the ITC strongly supports an extension of the ITARA authority prior to its June 2026 expiration date.

The statute states that the demonstration projects may be extended at the discretion of the Secretary. We have continually requested the Secretary to use his or her authority to do this, but unfortunately have been unsuccessful. Of course, permanent extension is also possible by an act of Congress, which we hope this Committee will consider.

The ITC member Tribes Coquille and Cow Creek have successfully implemented ITARA and have approved Indian Trust Asset Management Plans, or ITAMPs, for their forest resources. Both Tribes have demonstrated ITARA’s effectiveness in promoting

tribal self-determination, environmental stewardship, and economic sustainability.

ITARA has enabled the Tribes to manage its forest resources under its own laws and regulations, significantly reducing bureaucratic delays while streamlining review and approval processes. As a result, the Tribe has been able to dramatically reduce approval timelines for forest management projects, advance forestry goals and objectives with greater autonomy, swiftly access growing markets for forest products while optimizing revenue generation, and increasing revenue streams which are reinvested into vital services for tribal members. Over the course of the demonstration projects the Tribes have successfully conducted numerous forest management and fuels projects.

Moving on to IFMAT, the Committee is aware that the National Indian Forest Resource Management Act mandates that—an independent scientific review of Indian trust forests once every decade. The latest report from the Indian Forest Management Assessment Team, or IFMAT, was presented to Congress in 2023, and contains hundreds of recommendations for improving Indian forest management. The ITC reiterates its request for an oversight hearing before this Committee to ensure that its recommendations are being considered and implemented.

The 2023 IFMAT report contains specific observations about ITARA, noting that approximately 80 percent of tribal trust forest acres are managed wholly or partially under Public Law 93-638 contracts, cooperative agreements, or compacts. As Tribes continue to move towards self-governance with examples like ITARA, IFMAT found the context of the inherent Federal function and the relationship in fulfilling the Secretary's trust responsibility changes. This leaves a residual trust responsibility that is not well understood and can lead to under-utilization of self-governance authorities.

IFMAT found that there are specific benefits for Tribes and the BIA in carrying out forest management activities under ITARA and self-governance more generally. Tribes that are carrying out forest management activities under ITARA are performing functions previously considered inherent Federal functions, yet funds are not made available to the Tribes for these additional responsibilities.

The ITC supports the ITARA recommendations within the IFMAT report, including permanent extension of the ITARA authority; direct funds to Tribes held by Interior when they are performing inherent Federal functions under ITARA; improving funding, policy, and procedure guidance provided by the BIA regional offices concerning ITARA implementation needs; establishing a training program that provides BIA officials and tribal leaders with better strategies for engagement, consistent with congressional policy—this is something ITC is prepared to support the BIA with; identifying funding sources for the Tribes to participate in the ITARA demonstration projects; and review of the context of the Secretary's responsibility in fulfilling the performance of inherent Federal functions, including related funding issues.

In conclusion, in addition to the recommendations above I want to reinforce the importance of maintaining an adequate funding

and staffing for BIA to assist Tribes with the development, review, approval, and funding of Indian Trust Asset Management Plans.

When the Coquille ITAMP was approved in 2020, the BIA had almost 8,000 employees. Our understanding is that the current workforce is approximately half that, and the number is dropping. Without adequate, qualified staff in BIA we are likely to see continued delays in implementation and use of this authority.

Thank you again for holding today's Oversight Committee hearing, and I stand ready to answer any questions.

[The prepared statement of Mr. Desautel follows:]

PREPARED STATEMENT OF CODY DESAUTEL, PRESIDENT,
INTERTRIBAL TIMBER COUNCIL

Thank you for holding today's hearing to examine how to improve the management of Indian trust assets. As President of the Intertribal Timber Council, I will focus my comments on timber assets and the forest planning provisions of the Indian Trust Asset Reform Act (ITARA).

Background

Ten years ago, the ITC supported the Indian Trust Asset Reform Act—particularly the Demonstration Project of Title II. The intent was to allow tribes greater control in the management of their natural resources to benefit their own communities. Unfortunately, implementation was slower than anticipated and tribal participation lower than expected.

The ITARA was passed by Congress and signed into law (Public Law 114–178) in June 2016. One month later, the Obama Administration initiated a series of nine tribal consultations on Title III of the Act, dealing with the functions of the Office of the Special Trustee and appraisals of Indian trust property. A proposed rule was published in the Federal Register by September 2016.

Shortly after passage of the Act, several tribes contacted the Department requesting participation in the demonstration project. A year later, the Department responded to these requests by informing tribes that the demonstration project had not yet been established and that a consultation process with tribes would need to be completed before tribes could re-submit their requests for participation.

The ITC formed a Title II working group in June 2017 to help facilitate further discussions among tribes and with the Department. The Department did not sign the first Indian Trust Asset Management Plan (ITAMP) pursuant to ITARA until October 2020—more than four years after enactment.

P.L. 114–178 authorized the ITARA pilot project for 10 years from enactment (June 2016). Therefore, the pilot authority is set to expire in June 2026. Given the extensive time it took for even the first project to be approved, the ITC strongly supports extension of the ITARA authority. The statute states that the ITARA authority “may be extended at the discretion of the Secretary.” We have continually requested the Secretary of the Interior to use his/her authority to do this. Of course, permanent extension is also possible by an Act of Congress.

Implementation Examples

Several ITC member tribes have successfully implemented ITARA and have approved ITAMP's for their forest resources. The first approved ITAMP was for the Coquille Indian Tribe in western Oregon. Coquille's ITAMP allow for tribal members, staff and leadership at various levels to be a part of the environmental review decision process and for those individuals to provide valuable knowledge, information and insights into the management of their communities' forest resources.

The Coquille Tribe's internal timeline for project review can be adjusted to facilitate their needs, and allows the Tribe to more quickly adapt to change by managing under their own laws. The Coquille Tribe reports that ITARA has allowed for efficiencies in budgeting and financial management by eliminating an intermediate fiduciary.

Since receiving approval, the Cow Creek Band of Umpqua Tribe of Indians (“Cow Creek”) has actively engaged in forest management activities, demonstrating ITARA's effectiveness in promoting tribal self-determination, environmental stewardship, and economic sustainability.

ITARA has enabled Cow Creek to manage its forest lands under its own tribal laws and regulations, significantly reducing bureaucratic delays while streamlining review and approval processes. As a result, the Tribe has been able to:

- Dramatically reduce approval timelines for forest management projects.
- Advance forestry goals and objectives with greater autonomy.
- Swiftly access growing markets for forest products, optimizing revenue generation.
- Increase revenue streams, which are reinvested into vital services for tribal members.

Over the course of the demonstration project, the Tribe has successfully conducted numerous timber sale activities, including: regeneration harvest, commercial thinning, pre-commercial thinning, fuels reduction, and prescribed burning.

Cow Creek's commercial timber harvests demonstrate that a tribally led approach to land management is both efficient and economically beneficial not only for the Tribe but also for the local community. The Tribe's ability to act swiftly and strategically in forest product markets has resulted in enhanced financial returns and greater sustainability in forest resource utilization.

If you have travelled through Portland International Airport in Oregon, you'll note that it's a celebration of sustainably sourced wood products. Much of that wood was sourced from Pacific Northwest Indian Tribes. The wood provided by the Coquille Tribe came from their first timber sale pursuant to the ITAMP.

Independent Review by the IFMAT

The Committee is aware that the National Indian Forest Resources Management Act ("NIFRMA") mandates an independent scientific review of Indian trust forests once every decade. The latest report from the Indian Forest Management Assessment Team ("IFMAT") was presented to Congress in 2023 and contains hundreds of recommendations for the improvement of the management of Indian forests. The ITC reiterates its request of this committee to formally review the IFMAT report in an oversight hearing to ensure that its recommendations are being heeded.

The 2023 IFMAT report contains specific observations about ITARA, noting that approximately 80% of tribal trust forested acres (includes all categories) are managed wholly or partially under P.L. 93-638 contracts, cooperative agreements, or self-governance compacts rather than direct service. This is 38% of all tribal forestry and fire programs.

The IFMAT observed that ITARA makes the current BIA manual and handbook approach to development and compliance with federal standards less relevant. Also, inconsistent requirements and guidance exist between BIA direct operations and self-governance tribes relating to trust oversight, trust standards and trust responsibility. The most recent IFMAT report also noted that tribes have a unique vision for forest management more focused on stewardship and non-timber forest products. To accommodate this, we recommend some changes to the reporting metrics used by the BIA, which has historically been focused almost exclusively on timber production.

As tribes continue to move toward self-governance and perform programs under ITARA, IFMAT found, the context of the inherent federal function and the relationship of the performance of this function in fulfilling the Secretary's trust responsibility changes. This leaves a residual trust responsibility that is not well understood and can lead to underutilization of self-governance authorities.

IFMAT found that there are special benefits for tribes and BIA in carrying out forest management activities under ITARA and self governance generally. BIA rules and procedures have lagged the advance of self-governance creating limited progress and understanding of ITARA demonstration projects. ITARA promises self-governance benefits for interested tribes. However, many tribes have little or no knowledge about ITARA. Tribes carrying out forest management activities under ITARA are performing functions previously considered inherent federal functions performed by the BIA, yet funds are not made available to the tribes for these additional responsibilities.

IFMAT Recommendations

The ITC supports the recommendations of the IFMAT to improve its performance for tribes, including:

- Permanent extension of ITARA authority by the Secretary of the Interior or Congress;

- Redirect funds to tribes retained by the DOI/BIA for performing functions previously considered inherent federal functions but now carried out by tribes under ITARA. This reform would shift funds from the BIA to the tribes who are actually performing the functions and provide additional funds for tribes to achieve tribally defined state-of-the-art forest management;
- Funding, policy, and procedural guidance concerning ITARA implementation needs to be provided to BIA Regional offices;
- Establish a training program that provides BIA officials and tribal leaders with better strategies of engaging with self-governance tribes through a spirit of government to government and consistent with Congressional policy rather than domination. This is something the ITC is prepared to support BIA with, as we have done for implementation of other congressional authorities, such as the Tribal Forest Protection Act;
- Sources of funding should be better identified, and information provided to tribes about how to secure needed funding to participate in the ITARA Demonstration Project;
- Review, under ITARA, the context of the Secretary's trust responsibility and its fulfillment and changes in performance of inherent federal functions including related funding issues.

Conclusion

Thank you again for holding today's oversight hearing and your interest in improving the management of Indian trust assets, especially our forest resources.

QUESTIONS SUBMITTED FOR THE RECORD TO CODY DESAUTEL, PRESIDENT,
INTERTRIBAL TIMBER COUNCIL, PORTLAND, OR

Mr. Desautel did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Westerman

Question 1. The Indian Trust Asset Reform Act (ITARA) Demonstration Program was initially authorized for 10 years. How has ITARA streamlined decision-making and reduced bureaucratic delays for the ITC tribes?

1a) Do you think this program should be reauthorized again?

1b) Does the ITC have any proposed legislative changes or improvements to ITARA that would further enhance tribal self-governance?

Question 2. Do you think the Bureau of Indian Affairs/Department of the Interior has done an adequate job in advertising and informing tribes about the ITARA demonstration program?

2a) How did the ITC tribes initially hear about the demonstration program?

2b) What should the DOI be required to do for advertising the program if it is reauthorized?

Question 3. One of ITARA's goals was to assist tribes in getting day-to-day business done by providing an option for tribes to hire their own appraisers while eliminating the requirement that the DOI must review and approve them. Congress has recognized that delays in obtaining appraisals negatively impact economic development. Can you describe how the ability to hire appraisers has helped ITC tribes?

Question 4. ITARA essentially provided HEARTH Act treatment for trust assets as a way to provide tribes flexibility while creating new jobs. Please expand on the benefits of this flexibility.

Question 5. Your written statement mentioned that ITARA allowed for greater efficiencies by allowing tribes to make specific management decisions without federal bureaucratic review and analysis. Can this efficiency be extrapolated to a larger level, beyond tribal lands?

5a) How could tribes help bring their models of efficiency to federal land, forest and fire management?

Question 6. The Secretary of the Interior has the authority to extend the demonstration project. In your written statement, you stated that the ITC requested the Secretary of the Interior, then-Secretary Haaland, to do so. Were you provided any specific reason why she chose not to do so?

Question 7. In your written testimony, you touched on the Coquille Tribe's experience with ITARA in the realm of forestry and how the added flexibility of managing their own forest assets has benefited the tribe. Please elaborate further on this added flexibility and how important this is to forest resources?

Question 8. In your written testimony, you cited the Cow Creek Tribe's use of the ITARA demonstration project to streamline the review and approval process, reduce unnecessary timelines, and advance forestry goals. Elaborate further as to how ITARA opened the door for Cow Creek to conduct time sales, commercial thinning, and prescribed burning.

Mr. HURD. Thank you very much, President Desautel, for that testimony. The Chairman now recognizes President Capoeman for 5 minutes.

President Capoeman.

**STATEMENT OF THE HON. GUY CAPOEMAN, PRESIDENT,
QUINULT INDIAN NATION, TAHOLAH, WASHINGTON**

Mr. CAPOEMAN. Good afternoon, Chairman Hurd, Ranking Member Leger Fernández, Chairman Westerman, Ranking Member Huffman, and members of the Subcommittee. Thank you for giving me the opportunity to testify before you today on the Quinault Nation's experiences with the Indian Trust Asset Reform Act, ITARA.

My name is Guy Capoeman, and I am the duly-elected President of the Quinault Indian Nation Business Committee. I have held this position for the last 4 years, and currently serving in my second term.

As you know, ITARA was enacted into law in June 2016. This legislation was intended to enhance tribal self-determination by granting Tribes greater authority over the management of our trust assets. Under ITARA Tribes are authorized to conduct forestry programs under tribal law and regulations to assume functions previously considered as inherent Federal functions of the Bureau of Indian Affairs.

A key component of ITARA was the establishment of a voluntary demonstration project that allows participating Tribes to develop and implement their own Indian Trust Asset Management Plans. These plans enable Tribes to set objectives and priorities for assets located within their reservations or under their jurisdiction to manage these activities such as surface leasing, forest land management without requiring further approval from the Secretary of the Interior.

However, while ITARA was intended to support Tribes, its implementation has been fraught with challenges. Lack of clarity and significant delays in execution have undermined its goals. For example, the BIA struggled to define parameters of ITARA. It was not until October 1, 2018, over 2 years after ITARA's passage, that the BIA provided initial guidance to Tribes. Even with this guidance, Tribes continued to face uncertainty. And Quinault, for example, spent almost 3 years seeking answers to ITARA implementation.

These issues are not unique to Quinault, but are instead endemic to ITARA. In 2023, as required by the National Indian Forest Resources Management Act, the U.S. Forest Service Division of Forestry and Intertribal Timber Council, in support of the Secretary of the Interior, completed its 10-year Indian Forest Management Assessment Team, IFMAT, report. The IFMAT report primarily serves to conduct a comprehensive evaluation of Indian forest lands and associated management practices while also assessing the status, management, health, and utilization of these forests.

The IFMAT report addressed how—ITARA promises self-governance benefits for interested Tribes. However, many Tribes have little or no knowledge about ITARA. Tribes carrying out forest management activities under ITARA are performing functions previously considered inherent Federal functions performed by the BIA, yet funds are not made available to these Tribes for these additional responsibilities.

Quinault and other Tribes believe that ITARA has the potential to benefit Indian nations across the country. However, the very challenges ITARA was designed to address—excessive regulation, lack of clarity, and inadequate Federal responsiveness which continues to impede its success and undermine its goal of promoting self-determination. Again, more red tape that Tribes have to face to get something done.

To address these issues and support the implementation of ITARA, Quinault respectfully requests that the Subcommittee take the following actions.

As recommended in the IFMAT report, the ITARA Demonstration Project, set to expire in June 26, should be extended indefinitely to allow Tribes to continue working toward the self-governance and forest management outcomes envisioned by the Act.

Continue to support ITARA and similar legislation that advances tribal self-governance while minimizing over-reaching regulatory requirements.

As more Tribes assume forestry program management responsibilities under ITARA, the BIA's role should be re-evaluated.

ITARA is intended to empower Tribes. Require the DOI, the BIA, and other relevant agencies to implement ITARA as originally intended.

Streamlining processes and providing clear guidance when needed.

And I will say this, that the great Joe DeLaCruz said there is no more right, more sacred than the inherent right to govern yourself, and that means your lands and resources as well.

I want to thank the Committee for this opportunity to testify here today.

[Speaking Native language.]

[The prepared statement of Mr. Capoeman follows:]

PREPARED STATEMENT OF GUY CAPOEMAN, PRESIDENT, QUINAULT INDIAN NATION

Good afternoon, Chairman Hurd, Ranking Member Leger Fernández, Chairman Westerman, Ranking Member Huffman, and Members of the Subcommittee. Thank you for giving me the opportunity to testify before you today on the Quinault

Nation's ("Quinault") experiences with the Indian Trust Asset Reform Act ("ITARA"). My name is Guy Capoeman, and I am the duly elected President of the Quinault Indian Nation's Business Committee. I have held this position for the past four years and am currently serving in my second term. I am honored to be here and look forward to discussing ITARA.

As you know, ITARA was enacted into law on June 22, 2016. This legislation was intended to enhance tribal self-determination by granting Indian tribes' greater authority over the management of their trust assets. Under ITARA, "tribes are authorized to conduct forestry programs under tribal law and regulations and to assume functions previously considered as inherent federal functions of the Bureau of Indian Affairs ("BIA")."

A key component of ITARA was the establishment of a voluntary demonstration project that allows participating tribes to develop and implement their own Indian Trust Asset Management Plans ("ITAMP"). These plans enable tribes to set objectives and priorities for assets located within their reservations or under their jurisdiction, and to manage activities such as surface leasing and forest land management without requiring further approval from the Secretary of the Interior. Additionally, the Act directs the Department of the Interior ("DOI") to streamline processes related to the administration of Indian trust assets, including valuations and appraisals.

However, while ITARA was intended to support tribes, its implementation has been fraught with challenges. Lack of clarity and significant delays in execution have undermined its goals. For example, the BIA struggled to define parameters of ITARA. It was not until October 1, 2018—over two years after ITARA's passage—that the BIA provided initial guidance to tribes. Even with this guidance Tribes continued to face uncertainty, and Quinault, for example, spent almost three years seeking answers to ITARA implementation.

On September 24, 2021, Quinault formally expressed its interest in participating in the ITARA Demonstration Project by submitting a letter to then Assistant Secretary of Indian Affairs Bryan Newland. This letter outlined Quinault's proposed project and included the required resolution and other documentation. Quinault was subsequently advised to modify certain language in its submission to align with the requirements of the demonstration project. It was not until November 17, 2023, through a letter from Assistant Secretary Newland, that Quinault received approval to proceed with developing an ITAMP as part of the demonstration project.

Since receiving approval, Quinault has worked to develop its ITAMP, contracting with entities to assist with the plan's preparation after securing the necessary development funding. Despite these efforts, the process has been protracted. More than eight and a half years after ITARA's passage, and despite persistent efforts to navigate an initially unclear program and overcome federal delays, Quinault remains in the process of finalizing its ITAMP in a format that complies with purported federal requirements.

These issues are not unique to Quinault but are instead endemic to ITARA. In 2023, as required by the National Indian Forest Resources Management Act ("NIFRMA") the US Forest Service Division of Forestry and Intertribal Timber Council, in support of the Secretary of the Interior, completed its ten-year Indian Forest Management Assessment Team ("IFMAT") report. The IFMAT report primarily serves to conduct a comprehensive evaluation of Indian forest lands and associated management practices while also assessing the status, management, health, and utilization of these forests. The 2023 IFMAT report addressed ITARA in detail and stated the following important determinations:

- ITARA promises self-governance benefits for interested tribes. However, many tribes have little or no knowledge about ITARA. Tribes carrying out forest management activities under ITARA are performing functions previously considered inherent federal functions performed by the BIA, yet funds are not made available to the tribes for these additional responsibilities.
- Funding, policy, and procedural guidance concerning ITARA implementation needs to be provided to BIA Regional offices. [. . .] Sources of funding should be identified, and information provided to tribes about how to secure needed funding to participate in the ITARA Demonstration Project.
- [The federal government should] redirect funds to tribes retained by the DOI/BIA for performing functions previously considered inherent federal functions but now carried out by tribes under ITARA. This reform would shift funds from the BIA to the tribes who are actually performing the functions and provide additional funds for tribes to achieve tribally defined state-of-the-art forest management.

- [The] IFMAT [...] recommends the Secretary of the Interior extend the ITARA Demonstration Project indefinitely.

Quinault and other tribes believe that ITARA has the potential to benefit Indian nations across the country. However, the very challenges ITARA was designed to address—excessive regulation, lack of clarity, and inadequate federal responsiveness—continue to impede its success and undermine its goal of promoting Tribal self-determination. To address these issues and support the implementation of ITARA, Quinault respectfully requests that the Subcommittee take the following actions:

- As recommended in the IFMAT report, the ITARA Demonstration Project, set to expire in June 2026, should be extended indefinitely to allow tribes to continue working toward the self-governance and forest management outcomes envisioned by the Act.
- Continue to support ITARA and similar legislation that advances Tribal self-governance while minimizing overreaching regulatory requirements and oversight by the federal government. This is particularly critical in light of the administration's emphasis on reducing unnecessary regulation and the potential downsizing of BIA staff traditionally responsible for overseeing federal functions that can be assumed by Tribes under ITARA.
- As more Tribes assume forestry program management responsibilities under ITARA, the BIA's role should be reevaluated. ITARA empowers Tribes to manage forestry operations and approvals more efficiently, cost-effectively, and in alignment with their unique needs, eliminating the need for unnecessary federal involvement and oversight.
- Require the DOI, the BIA, and other relevant agencies to implement ITARA as originally intended by streamlining processes, providing clear guidance where needed, and ensuring timely review and approval of ITAMPs as well as support for Demonstration Projects.

ITARA has the potential to empower tribes by reducing federal oversight and promoting tribal autonomy. However, the very federal intervention ITARA sought to minimize has delayed its implementation. Quinault believes in ITARA's promise and its ability to give tribes the authority to manage, protect, and utilize their natural resources for the benefit of their communities and the country as a whole. We respectfully urge the Subcommittee to support the actions outlined here and to champion tribal autonomy, resource stewardship, and economic independence.

Thank you for the opportunity to testify today.

QUESTIONS SUBMITTED FOR THE RECORD TO THE HON. GUY CAPOEMAN, PRESIDENT,
QUINULT INDIAN NATION, TAHOLAH, WA

Questions Submitted by Representative Westerman

Question 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?

Answer. 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.

1a) How did the Quinault Indian Nation initially hear about the demonstration program?

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

1b) What should the DOI be required to do for advertising the program if it is reauthorized?

Answer. 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.

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

Answer. 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.

2a) How can Congress better address these issues?

Answer. QIN does not have suggestions responsive to this question.

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?

Answer. 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.

3a) Where do you see any opportunity to reduce bureaucratic red tape to expedite that process?

Answer. 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.

Question 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?

Answer. 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.

4a) How has the Bureau of Indian Affairs/Department of Interior stalled that project specifically?

Answer. 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.

Question 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.

Answer. 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 25 CFR 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.

Mr. HURD. Thank you, President Capoeman, for that testimony. The Chairman now recognizes Ms. Schulz-Oliver for 5 minutes.

Ms. Schulz-Oliver.

STATEMENT OF AMBER SCHULZ-OLIVER, EXECUTIVE DIRECTOR, AFFILIATED TRIBES OF NORTHWEST INDIANS, PORTLAND, OREGON

Ms. SCHULZ-OLIVER. [Speaking native language.] Good afternoon. My name is Amber Schulz-Oliver. I am Yakima and Wasco, and I serve as the Executive Director of the Affiliated Tribes of Northwest Indians, or ATNI. The ATNI Executive Board has asked me to be here today to provide this testimony on the Indian Trust Asset Reform Act.

I want to thank Chairman Hurd, Ranking Member Leger Fernández, and members of the Subcommittee for allowing me to appear today.

ATNI was founded in 1953, and represents 57 tribal governments from Washington, Oregon, Idaho, Southeast Alaska, Northern California, and Montana. In 2011 ATNI's Trust Reform Committee began developing the underlying bill text that Congress would 5 years later enact into law as ITARA. This effort involved ATNI leadership, our member Tribes, and technical staff. We were proud to see a bill that originated from our organization be signed into law as one of the only Indian policy bills of the 114th Congress.

ITARA contains three titles. Title 1 includes findings and a reaffirmation that the responsibility of the United States to Indian Tribes includes a duty to promote self-determination regarding governmental authority and economic development.

Title 2 establishes a 10-year demonstration project that authorizes Indian Tribes, on a voluntary basis, to direct the management of their trust resources through negotiated agreements with the Secretary of the Interior. This title is based on Indian Country's recognition that in nearly every instance Indian Tribes have demonstrated that they are better managers of their natural resources and affairs than the Federal Government.

Finally, title 3 of ITARA authorizes the creation of an Under Secretary for Indian Affairs, and directs the Secretary to prepare a report to the authorizing committees on a transition of functions from the Office of the Special Trustee. Although no administration has established the under secretary position since ITARA was enacted, ATNI continues to support the establishment of that position.

ATNI's initial enthusiasm of ITARA's enactment into law in 2016 was tempered when the Department began tribal consultation on its implementation. When the Department consulted on title 2, it presented a template document that contained broad waivers of liability and other requirements not required or even contemplated by the text of the ITARA law.

Another major concern is the Department's continued assertion that only forest resources and surface leases can be included in trust asset management agreements. As drafted, ITARA applies broadly to trust resources. ATNI intentionally did not define the term "trust resources" out of concern that the Administration might reject traditional energy resources from its scope, like coal or oil and gas. There is no basis, legal or otherwise, for the Department's continued view that the law is limited to forestry and surface leases.

ATNI recommends that the Committee consider clarifying amendments to ITARA that will eliminate the agency-imposed obstacles to tribal participation. At a minimum, ATNI recommends three changes.

The first is to eliminate the Secretary's discretion in section 203(a) of the law to dissuade or reject Tribes from submitting trust asset management agreements. The language should be revised to eliminate the initial application requirement. Tribes should be able to submit proposed agreements for the Secretary's consideration without that initial step.

Second, the Committee should address the Department's unfounded interpretation that only forest resources and surface leases are includable in trust asset agreements. The Department's misguided interpretation of the law has prevented Indian Country from utilizing ITARA to its full potential. ATNI will work with the Committee on language to ensure that Indian Tribes can include the full breadth of tribal trust resources and trust asset agreements as we originally intended.

Finally, any amendments should make the demonstration project in title 2 permanent. In 2024 ATNI adopted Resolution 2425, which urged the Secretary to make the demonstration project permanent, and the National Congress of American Indians adopted this resolution in its 2024 annual convention. Despite these calls for the Secretary to administratively extend the program, no action has been taken to date.

ATNI is grateful for this Subcommittee holding today's hearing. We look forward to working with the Committee on issues related to ITARA. This concludes my testimony, and I will be happy to entertain any questions.

[The prepared statement of Ms. Schulz-Oliver follows:]

PREPARED STATEMENT OF AMBER SCHULZ-OLIVER, EXECUTIVE DIRECTOR,
AFFILIATED TRIBES OF NORTHWEST INDIANS

The Affiliated Tribes of Northwest Indians (“ATNI”) is pleased to provide this testimony on federal Indian trust asset management, specifically the Indian Trust Asset Reform Act (“ITARA”). As explained below, in 2011, ATNI began developing the underlying bill text that Congress would five years later enact into law as ITARA. I am pleased to provide ATNI’s perspective on ITARA, its implementation by the Department of the Interior, and provide recommendations for the Committee to consider going forward.

Background on ATNI and the Development of ITARA

Founded in 1953, ATNI represents 57 tribal governments from Washington, Oregon, Idaho, southeast Alaska, northern California, and Montana. For more than two decades, ATNI and its member tribes in the Pacific Northwest have been active proponents of forward-looking trust reform. ATNI’s support and interest in these issues has been and is grounded in our commitment to maintaining the integrity of the United States’ trust responsibility, the foundation of which is based upon the historical cession of millions of acres of ancestral lands by tribes to the United States. It is also based on our recognition that in nearly every instance, Indian tribes have demonstrated that they are better managers of their natural resources and affairs than the federal government.

Much of the text of ITARA had its origins in S. 1439 and its House companion bill, H.R. 4322, which were introduced in the 109th Congress. Those bills were introduced and co-sponsored by the respective committee chairmen and ranking members of the House Natural Resources Committee and the Senate Committee on Indian Affairs. Following introduction, staff from those committees travelled across the United States to consult with Indian tribes on the legislation. The committees then generated a revised version of S. 1439 to reflect the input they received. Using the committees’ revised draft of S. 1439 as a template, beginning in 2011, ATNI focused on updating the two titles of that bill that remained relevant following the settlement of the Cobell litigation. Those two titles were the “Indian Trust Asset Demonstration Project” and “Restructuring the Office of the Special Trustee.”

ATNI’s Trust Reform Committee, which includes tribal leaders and technical staff, drafted the new bill text over a period of months. Once ATNI adopted the text through ATNI Resolution #12–62, we sought sponsors for introduction. Rep. Mike Simpson (R–ID) and former Rep. Denny Heck (D–WA) introduced the House bill, H.R. 812. Senators Mike Crapo (R–ID) and Patty Murray (D–WA) sponsored the Senate bill. President Obama signed H.R. 812 into law on June 22, 2016.

Overview of ITARA and Trust Asset Demonstration Project

ITARA contains three titles. Title I includes findings and a reaffirmation that “the responsibility of the United States to Indian tribes includes a duty to promote tribal self-determination regarding governmental authority and economic development.”

Title II establishes a 10-year demonstration project that authorizes Indian tribes, on a voluntary basis, to direct the management of their non-monetary trust resources through negotiated agreements—called Indian Trust Asset Management Plans (“ITAMPs”)—with the Secretary of the Interior (“Secretary”).

To participate, tribes submit a letter of interest to the Secretary and, upon approval by the Secretary, then submit a proposed ITAMP. An ITAMP must include, among other things, a description of the trust assets that would be subject to the plan, the tribe’s management objectives and priorities for assets subject to the plan, and a proposed allocation of funding for the proposed management activities.

Unlike the Indian Self-Determination and Education Assistance Act, which authorizes tribes to contract or compact federal functions under federal standards, the demonstration project in Title II of ITARA is unique in that it allows participating tribes the freedom to determine how their resources will be managed under tribal standards.

For example, an Indian tribe with timber resources that seeks to participate in the demonstration project could submit a plan that would direct that some of its forest land be managed in a manner to maximize value on timber sales. The plan might also direct that other forested acreage not be harvested at all to encourage tourism or promote certain wildlife habitat.

Title II of ITARA also authorizes the Secretary to approve ITAMPs that include provisions authorizing Indian tribes to carry out surface leasing or forest management activities without secretarial approval under certain conditions. This concept is modeled on and is substantively identical to the HEARTH Act of 2012.

Empowering tribes to create value with their own resources epitomizes the federal policy of self-determination. In an era where federal appropriations for management of tribal natural resources have been a fraction of the actual need, ATNI intended the ITARA demonstration project in Title II to be a practical tool that tribes could utilize to maximize its resources. ATNI also envisioned that the demonstration project would eventually become permanent.

Finally, Title III of ITARA authorizes the creation of an Undersecretary for Indian Affairs and directs the Secretary to prepare a report to the authorizing committees on a transition of functions of the Office of the Special Trustee. Although no administration has established the Undersecretary position since ITARA was enacted, ATNI and other tribal organizations continue to support the establishment of that position.

Obstacles to Realizing ITARA'S Potential

The initial enthusiasm of ITARA's enactment into law was disappointedly tempered when the Department began tribal consultation on its implementation. The Department first began consultations on Title III of the law and presented information in such a manner to foreclose any meaningful discussion of restructuring the Office of the Special Trustee. When the Department consulted on Title II, it presented a template document that contained broad waivers of liability and other requirements not required or even contemplated by the text of the ITARA law.¹

The most significant concern, however, is the Department's continued assertion that only forest resources and surfaces leases can be included in ITAMPs, despite ITARA applying broadly to "trust resources." When drafting the underlying legislation, ATNI intentionally did not define the term "trust resources" out of concern that the administration might jettison traditional energy trust resources from its scope. There is no basis, legal or otherwise, for the Department's continued view that the law is limited to forestry and surface leases. This interpretation has prevented Indian country from utilizing ITARA to its full potential.

To date, ATNI is aware of only two ITAMPs that the Secretary has approved, both of which involved forest resources. The Cow Creek Band of Umpqua Tribe of Indians had the first approved ITAMP and the Coquille Indian Tribe the second. Both tribes are in the state of Oregon.

Recommendations

With the benefit of hindsight and the experiences of other Indian tribes that have attempted to utilize or expressed interest in utilizing ITARA, ATNI recommends that the Committee consider clarifying amendments to eliminate the agency-imposed obstacles to tribal participation. At a minimum, ATNI recommends the following:

1. *Eliminate the Secretary's discretion to reject tribes from submitting ITAMPs:* Section 203(a) of ITARA sets forth a process for tribes to submit a written application and, following approval by the Secretary to participate in the demonstration project, submit an ITAMP. This language was a holdover from the text of S. 1439 in the 109th Congress and, unfortunately, appears to have been used by the Department as a pre-screening mechanism to dissuade or preclude tribes from submitting ITAMPs. Section 203(a) should be revised to eliminate the initial approval requirement and simply allow tribes to submit ITAMPs for the Secretary's consideration.
2. *Clarify the Scope of Resources Includable in ITAMPs:* The Department's narrow and baseless interpretation that only forest resources and surface leases are includable in ITAMPs must be addressed. ATNI will work with the Committee on language to ensure that Indian tribes can include the full breadth of tribal trust resources in ITAMPs as we originally intended.
3. *Make Title II Permanent:* ITARA provides for the demonstration project in Title II to have a term of 10 years, which can be extended at the discretion of the Secretary. In 2024, ATNI adopted a Resolution #24-25, which urged the Secretary to make the demonstration project permanent, and the National Congress of American Indians adopted this resolution at its 2024 annual conference.² Despite this resolution and calls from other organizations for the

¹ See <https://www.bia.gov/sites/default/files/dup/assets/as-ia/raca/pdf/ITARA%20Draft%20Guidance.pdf>

² See <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=5608&index=5&total=59&view=viewSearchItem>

Secretary to extend the program, no action has been taken to date. Any amendments to ITARA should clarify that the Title II authority is permanent.

ATNI is grateful for the Subcommittee holding today's hearing and looks forward to working with the Committee on issues related to ITARA.

QUESTIONS SUBMITTED FOR THE RECORD TO AMBER SCHULZ-OLIVER, EXECUTIVE DIRECTOR, AFFILIATED TRIBES OF NORTHWEST INDIANS, PORTLAND, OR

Questions Submitted by Representative Westerman

Question 1. The Indian Trust Asset Reform Act (ITARA) Demonstration Program was initially authorized for 10 years. How has ITARA streamlined decision-making and reduced bureaucratic delays for ATNI tribes?

Answer. ATNI understands that the Cow Creek Band of Umpqua Indians, which had the first approved Indian Trust Asset Management Plan (ITAMP), can carry out prescribed burns under tribally approved burn plans. This is a significant advantage over the Bureau of Indian Affairs' (BIA's) current practice, which requires approval for individual burn plans by a BIA official.

1a) Do you think this program should be reauthorized again?

Answer. Yes, for the reasons set forth in my written statement.

1b) Does ATNI have any proposed legislative changes or improvements to ITARA that would further enhance tribal self-governance?

Answer. Yes. As noted in my written statement, ATNI has three specific recommendations:

- 1. Eliminate the Secretary's discretion to reject tribes from submitting ITAMPs;
- 2. Clarify the scope of resources includable in ITAMPs; and
- 3. Make Title II of ITARA permanent.

In addition, ATNI is considering language that would provide for tribally proposed ITAMPs to be deemed approved if the Secretary fails to approve or disapprove them within the prescribed 120 day review window. This approach is consistent with the "deemed approved" language in the Indian Self-Determination and Education Assistance Act (ISDEAA).

Question 2. One of ITARA's goals was to assist tribes in getting day-to-day business done by providing an option for tribes to hire their own appraisers while eliminating the requirement that the DOI must review and approve them. Congress has recognized that delays in obtaining appraisals negatively impact economic development. Can you describe how the ability to hire appraisers has helped ATNI tribes?

Answer. Section 305(a) of ITARA required the Secretary, within 18 months of enactment and in consultation with Indian tribes, to ensure that appraisals and valuations of Indian trust property are administered by a single bureau, agency or other administrative entity within the Department. Sections 305(b) and (c) establish a process whereby the Secretary establishes minimum qualifications for persons to prepare appraisals and valuations of Indian trust property. When an Indian tribe or Indian beneficiary submits an appraisal or valuation to the Secretary that satisfies those minimum qualifications—and the submission acknowledges the tribe or beneficiary's intent to have the appraisal or valuation considered under this new subsection—the appraisal or valuation will not require any further Secretarial review or approval and will be considered final for purposes of effectuating the applicable transaction.

The Department, despite being fully apprised of ATNI's intent in drafting that section, did not implement Section 305(a) as intended and, in fact, made matters worse. Section 305(a) was intended to eliminate the situation of the BIA being required to request an appraisal from the Office of Appraisal Services, which was the entity within the Office of the Special Trustee that prepared or contracted the appraisals. If the BIA failed to make the request, no appraisal would be pipelined to be assigned to an appraiser. This happened often and resulted in significant delays for tribes.

Instead of unifying the administration of appraisals, the Secretary reorganized and centralized the appraisal function to the Appraisal Services Directorate in the Department. Under this current arrangement, the BIA now must request appraisals to that Directorate and compete within the Department with appraisal requests from larger land management agencies like the National Park Service, Bureau of Land Management, etc.

Question 3. ATNI's membership includes 57 Indian tribes. Can you briefly describe the demographics of ATNI's membership and some of the resource management issues that tribes have identified?

Answer. ATNI's membership is a diverse mix of tribes, ranging from tribes with smaller land bases on the coast and waterways in Puget Sound in western Washington to tribes with larger land bases in the Plateau area east of the Cascades. ATNI member tribes have reported that they would like more flexibility to carry out management activities on adjacent federal lands, in addition to their tribal lands. They would also like to see the Department adopt a more flexible position on the scope of regulations that can be waived in ITAMPs.

3a) How have ATNI's membership stated how current asset management can be improved by an Indian Trust Asset Management Plan or Project (ITAMP) or other reforms that Congress could consider?

Answer. ATNI member tribes have indicated that they would like more authority to perform and contract federal functions on federal lands, including with the U.S. Forest Service.

Question 4. Your testimony highlights the frustration amongst tribes with the Department of the Interior limiting the scope of ITAMPs to forest resources and surface leases. From the northwest tribes' perspective, what other resources might tribes want to include in these plans?

Answer. ATNI is still considering an appropriate definition and will provide the Committee with language once finalized. We are considering, however, a definition that would incorporate the definition of "trust resources" in ISDEAA (25 CFR § 1000.352) coupled with any resources that are, or have in the past been, included in any resource management or integrated resources management agreements approved by the Secretary of the Interior.

Question 5. Your written statement mentions that Title III of the ITARA authorizes the establishment of an Undersecretary for Indian Affairs, a high-level position in the Department. What did ATNI intend for this new position when it worked on Title III?

Answer. The Undersecretary was intended to be a Deputy Secretary-level position within Interior to coordinate Indian issues that implicate non-Indian agencies within Interior.

Traditionally, Indian Affairs within the Department of the Interior has been disadvantaged when it has had disagreements with other larger land management agencies like the Bureau of Land Management or National Park Service. The Undersecretary's role is intended to ensure alignment of policy positions before other non-Indian agencies within Interior formulate and finalize initiatives or policy positions that affect Indians without the Indian Affairs personnel knowing about it.

Question 6. What are the primary challenges the ATNI faces when managing trust assets under the traditional Bureau of Indian Affairs system?

Answer. ATNI member tribes have expressed concerns over regulatory constraints on forest management activities, particularly prescribed burns. As noted in the Tulalip testimony, other tribes have resources that they would like to manage different types of trust resources.

Question 7. How does ITARA compare to other federal programs aimed at increasing tribal self-governance in natural resource management?

Answer. I think this has yet to be determined because of the limited scope of resources the Department of the Interior has authorized to be included in ITAMPs to date. At this point, ITARA compares favorably to ISDEAA for the flexibility it has provided the Cow Creek Band of Umpqua Indians in managing its forest land.

Mr. HURD. Thank you so much, Ms. Schulz-Oliver, for that testimony. The Chairman will now recognize Members for 5 minutes of

questions each, and I will begin by recognizing myself for 5 minutes.

Mr. Schulz-Oliver, can you talk to me a little bit about, your testimony is really interesting. My sense is that the problem is not necessarily in the language of ITARA, but the way that it is being implemented by the BIA. Is that a fair characterization?

Ms. SCHULZ-OLIVER. That is correct. The issue is that there is a narrow view of the definition of the trust assets.

Mr. HURD. Do you know why that would be?

[No response.]

Mr. HURD. Or is there a reason given, I should say.

Ms. SCHULZ-OLIVER. Not to my knowledge. It certainly wasn't intended in the original language of the text of the bill.

And we understand that trust assets can be widely diverse, and ATNI is committed to working with the Committee to developing and further refining that definition.

Mr. HURD. OK. So part of that suggested fix might be making it clear what the definition of those assets is, then, that it is broad, that it is not necessarily narrow as the BIA seems to have interpreted it.

Ms. SCHULZ-OLIVER. That is correct.

Mr. HURD. OK, thank you.

Mr. Capoeman, you mentioned that ITARA was intended to empower Tribes. I think that is right. That is a great point. But it seems to not be doing that with two exceptions here.

One of the things that you mentioned was that there was little knowledge of ITARA, and that many Tribes are unaware of those opportunities that comes with ITARA. And then, of course, as we are hearing today, those who are aware of it and do apply face lots of confusing and unnecessary restrictions. What should Congress and the Department of the Interior do to improve outreach with respect to ITARA?

Is there a role that could be done there to let Tribes know that this is an option?

Mr. CAPOEMAN. I think every region—

Mr. HURD. If you could, hit your mike real quick.

Mr. CAPOEMAN. Oh, sorry. Every region within the timber area should be notified where there are caucuses of Tribes that come together to be informed of what exactly ITARA is, what its intent is, how all these Tribes see it moving forward. I think that is the best way to get the word out and to get some feedback from Tribes on how it should work.

Mr. HURD. Mr. Capoeman, if you could change, two or three things about ITARA, if you could insert the language in the statute or direct the BIA to do two or three things, can you name two or three things just off the top of your head that would be most useful or most productive?

Mr. CAPOEMAN. Well, I think the first thing is follow-through. I know we have ITARA, and the follow-through on the side of the BIA to ensure that it is getting done and passed down to Tribes would be the first thing.

The second thing is to work with Tribes on creating the best format so that Tribes can succeed with this.

The third thing is ensuring that the dollars to manage and do this work that was formerly done by the BIA be given to Tribes, as well, because that is a part of it, right?

Those are the big three that I think need to occur.

Mr. HURD. Well, thank you very much.

Mr. Gobin, you mentioned the narrow and cramped interpretation of ITARA, and you talked about the importance of removing roadblocks. Could you give me a couple of examples of what are concrete roadblocks that, in your experience, you have seen thrown up with respect to this process?

Mr. GOBIN. Our reservation consists of 22,000 acres. Of that, much of it is checkerboarded through various policies, procedures, through history, and has went out of trust into non-Indian ownership, non-member ownership. So we have, it is like a three-sided reservation. One side is completely bordering the water.

So as such, you go along, you have tribal property and then you have upland non-Indian property. Throughout all of that process, though, never has the Tribe sold its tidelands. Never has it relinquished right to the tidelands. And so it creates a dispute at times. Oftentimes, growing up as a kid, we were told we were trespassing on our own reservation, and had to deal with that when we fished commercially, so it is from the shore, so then you are limited by where you can actually fish anymore, because now bulkheads have been placed in place there, and you lose your access to that shoreline at various stages of the tide.

Those are the major things that you see through time. The design of bulkheads and that has changed, and there is far more hard armoring on the shoreline than ever before. And we want to work with people to redesign, reshape what that shoreline looks like, while still protecting the habitat and the environments there and still enjoying the use of the beach.

Mr. HURD. Thank you so much, Mr. Gobin. I appreciate that. Thank you, witnesses for your testimony.

My time has expired and I yield back. I will now recognize Ranking Member Teresa Leger Fernández for 5 minutes.

Ranking Member Leger Fernández.

Ms. LEGER FERNÁNDEZ. Thank you, Mr. Chairman. And it strikes me that 10 years is both a long time and not a long time, right, and sort of this law was passed in 2016, apparently probably signed into law by Obama, and then in about 2017 the regulations looked like were passed. And then the process began for applying.

And right now, you know, we went through another 4 years of the Biden administration. Now we are back on the Trump administration, and we only have four Tribes participating. And I need to give it up to Oregon because three of them are in Oregon and one of them is in Washington. And so clearly, there has been a failure of communication so that this is not more widespread.

And I am wondering, maybe I will go to you, Ms. Oliver, to give a sense, because you were there when the idea of this sparked excitement, what can we do so that more Tribes can learn of this opportunity?

I checked, and it looks like we might have less than 10 actually applying, and we have heard why not. But what is it that we need

to do to expand its breadth outside of the beautiful Pacific Northwest?

Ms. SCHULZ-OLIVER. Thank you for that question. And to clarify, I should have mentioned I have only been in this position for 2 years, so I wasn't there at the beginning, but that doesn't mean that I am not excited about the bill.

Ms. LEGER FERNÁNDEZ. Yes.

Ms. SCHULZ-OLIVER. So I think one of the things that we can do has been mentioned by my counterparts and tribal leaders here. One is to eliminate the initial application requirement under 203(a). There is an inherent sort of way to, not self-select, but kind of handpick Tribes that are able to participate in the program. That may be an unintended consequence, but I think elimination of that requirement might open up the opportunities for other Tribes to participate.

Ms. LEGER FERNÁNDEZ. So it also strikes me that one of them is an issue. And we run across this with law enforcement with 638 contracts compacting, that sometimes it is really the Tribes who have more capacity that are able to do that. If you have more resources and capacity, you are able to take advantage where other Tribes aren't. And it just strikes me.

I was looking at some of the numbers that tribal forest lands receive only \$0.40 for every \$1 allocated to the National Forest Service lands. Tribes and BIA manage twice as many acres per forestry staff member, compared. So you guys are doing a whole lot with less. And we had both President Capoeman and President Desautel talk about the fact that you needed more resources, right? Because if we don't fund the programs, then when you take it over, even if you were then able to contract those, you are not bringing enough money down.

Are you concerned about that, that if we don't fund these programs when you go to take them over, or if we say as part of the project we need to make sure that you can push those resources down? What is that sort of like tension that you have with regards to that?

I will start with President Desautel.

Mr. DESAUTEL. Well, I think that is a very important consideration, and I think a lack of information in the difference between what an Indian Trust Asset Management Plan is and what those flexibilities are versus what a traditional 638 contract mechanism is are important for Tribes to understand.

And again, the funding is equally important because, I mean, it makes no sense to develop a plan if you don't have funding to then implement that plan because the Tribe's long-term objectives are to do that on-the-ground resource management to improve conditions and resources for access to their tribal membership. So without a ready funding source, and I think Tribes are unsure about what that funding mechanism would be, they are familiar with the 638 because we have used it for the last three decades, but for ITARA that a little unclear.

Ms. LEGER FERNÁNDEZ. Right, and so we need to put that in the language. And looking at the public law, you are right, it does not limit.

But President Capoeman, maybe you can answer the question and then I will yield back.

Mr. CAPOEMAN. Yes, I think what my colleague here said really hits it on the head.

I mean, if the BIA is not there to do that trust responsibility, the Tribe is going to take that on and ensure that that work gets done, and manage those lands, those resources, and do all those things. Then, in effect, the Tribe itself takes on that trust responsibility to do that work for the landowners.

So then, in order to do that work, we need those funds to pull that off. And whether that is a 638 contract or another format, they go hand in hand. And I think that is going to be the big kicker in how this moves forward.

And nowadays, for us to find a forester out there, I mean, we are undermanned as it is to do the work we have to do, and underfunded to do the work we have to do, as well. So yes, they both go hand in hand.

Ms. LEGER FERNÁNDEZ. OK, thank you very much, and I appreciate your answers.

And I yield back.

Mr. HURD. Thank you very much, Ranking Member Leger Fernández. The Chair now recognizes Mr. Kennedy from Utah for 5 minutes.

Mr. KENNEDY.

Mr. KENNEDY. Thank you, Mr. Chair. It is an honor to be here with you and the Committee. And thanks for those witnesses that took all the time to come to Washington, D.C.

We are grateful to have you here, and I particularly appreciate that you have pointed out a problem and you have also offered solutions. Each one of you in your written testimony have offered us opportunities for us to step in and try to help. So thank you for that. Many times we have people pointing out problems, but they are unwilling to give us options for solutions. So thank you.

I am interested, Mr. Gobin, in your testimony. I wanted just for clarification sake, Snoqualmie Falls is part of your ancestral heritage or not?

Mr. GOBIN. It would have been under our traditional area, in our usual and accustomed areas.

Mr. KENNEDY. Yes, I have been there many times, a beautiful area.

And in fact, one of the things that I am interested overall with all four of you is why the Bureau of Indian Affairs is not willing to give you the access to the full benefit of what this 10-years-ago law was passed, what it was supposed to do. It is almost like the BIA has an intent to not execute on the intent behind our law, that they don't really want you to have full power. And I am very supportive of States, and in this case the Tribes, of executing their full power.

So Mr. Gobin, I am curious, and this is where I am interested, because in your written testimony, thank you for doing that, you said, "Today the shoreline is studded with marinas, parking lots, public buildings, houses, cabins, docks, bulkheads, and beach access stairways, causing negative impact on shorelines, on the

reservation, and throughout Puget Sound.” I have been to those areas. They are beautiful areas.

And what I am concerned about is that the BIA is more interested in those boats and marinas and docks than they are in the tribal rights to use those properties in the ways that they ancestrally are able to. Can you give me an opinion that you have about why is the BIA not helping you to carry forward the full intent of the law? Does it have anything to do with the private property rights of these boats and marinas and docks?

Mr. GOBIN. Yes, certainly I can, and I do have an opinion.

I believe that they are misreading the document because it uses examples of forestry or land leases. To them it must imply that it only belongs to that. But this is an Indian trust asset management. And so, as such, when we go back to the executive order establishing our reservation, which includes all of the tidelands to the low water mark, those are held in trust by the U.S. Government for the benefit of the Tribe.

You do an instant Google search of what is a trust asset for Tribes, No. 1 is land held in trust for the Tribe. No. 1. So I am not sure why they are not including that. It makes no sense to us. But it needs to be changed and reaffirmed. If they can’t determine the intent by themselves, I would ask that the Committee establish what that is, and clearly identify what that is, and make it permanent.

Mr. KENNEDY. Thank you for that answer. And it does reflect, the land being held in trust, almost like you can’t handle it yourself, we will handle it for you and give you whatever ancillary benefits we get around to. It seems like an inferior position that you are put in as a result of this somewhat parental relationship that the Federal Government is putting you in. Would you characterize it that way or in some other way?

Mr. GOBIN. I think you did it very well. It is the paternal aspect of looking out for this. Or maybe it is the lack of resources that they have and not willing to expand it further.

Mr. KENNEDY. Thank you for that. I am really interested in eliminating that parental relationship. I believe you and your people are more than capable of handling these.

We will go to for a moment then Ms. Amber Schultz-Oliver.

Thank you very much for being here. And you recommended that the demonstration project be made permanent, and I am in fact interested in that, as well. I think that that could be good policy. Tell me how you and ATNI came up with that recommendation.

Ms. SCHULZ-OLIVER. Thank you for that question. I think one of the things it would do is it more Tribes would be able to take advantage of this Act. As we heard in testimony, not very many have been able to submit their plans and get their plans approved.

And it also allows for longer-term management, rather than just a short, 10-year period.

Mr. KENNEDY. Thank you for that answer.

And Mr. Chair, I will just finish just by saying it seems like there is an intentional misreading of this law, that the Bureau has no interest, really, in these people being able to manage. And the law, as far as I have been led to believe, it is fairly clear, but the Bureau does not want to allow it to be read in that clarity. So,

whatever I and we can do to help. Thank you very much, Mr. Chair, for the time to ask these questions, but I am concerned about 10 years and only 2 Tribes being allowed to do anything with this law, which seems to be fairly clear on its face. So thank you, Mr. Chair. I yield back.

Mr. HURD. Thank you, Mr. Kennedy. The Chair now recognizes Ms. Hoyle from Oregon for 5 minutes.

Ms. HOYLE.

Ms. HOYLE. Thank you, and thank you for your testimony. I have the great honor to represent four tribal nations, two of which, the Cow Creek Band of Umpqua Indians and the Coquille, were the first two Tribes in the country to have approved Indian Trust Asset Management Plans in the Pacific Northwest. We have been leading the way on forest management.

And I am not going to ask you to assign intent or an explanation to what the BIA is doing. What I am going to ask you, specifically, Mr. Desautel, I would like you to share some of the positive benefits from these agreements both for the Tribes and then also for the surrounding communities.

Mr. DESAUTEL. Sure, thank you for the question.

So from the tribal perspective, under an approved trust asset management plan they have more discretion on setting priorities, establishing timelines, and really circumventing some of those bureaucratic processes that would exist if those were BIA-approved plans. So that is particularly beneficial for some of the smaller Tribes that maybe have smaller acreages to manage, smaller staff and capacity to deal with those types of NEPA documents, which I am sure this Committee knows are very complicated. So I think that provides a lot of flexibility that allows implementation to flow much easier.

It also allows them to be more flexible if there is shifting priorities. In Coville for example, extensive amount of a wildfires on our reservation over the last decade, and we could shift what our priorities were and what forest health treatments would be done first versus next.

And then from across a jurisdictional, co-management type approach, it gives them the ability to work with their neighbors more flexibly so under State regulations things move faster, private industry regulated by the State can move faster. So really, we are just looking at our Federal partners at that point. What can we do collectively across the landscape to mitigate risk, to improve forest health and management, to improve those other resource benefits that are critical for everybody in our communities: clean water, clean air, healthy landscapes?

So I think those are tools that are very, very valuable when you have more flexibility from a management perspective.

Ms. HOYLE. Thank you. And I think we spoke earlier about the potential of having field hearings, certainly with the O&C lands in Oregon and having examples of tribal nations that have used the Indian Trust Asset Management Plan with the checkerboard pattern so we can see forests managed by Tribes next to forests managed by the Forest Service and the BLM and private lands, and where our wildfires go. I think it is clear that Tribes manage for future generations and in a holistic nature. Certainly, with

millennia of experience relying on Tribes for co-management or assigning Good Neighbor Authority or this program is absolutely the most important thing we can do, and I am hoping I can get my colleagues to also agree to field hearings.

Now, in your testimony you discussed the 2023 Indian Forest Asset Management Team report that included recommendations for improving management of Indian forests. How can the Committee support the work to implement those recommendations?

Mr. DESAUTEL. Well, I think first holding an oversight hearing would be very beneficial. While you have seen the report, I am sure you see lots of reports on a daily basis, so having an opportunity to discuss those issues, what the recommendations of the report were, and how we can pass policy or legislative bills that would be beneficial in addressing some of those issues. That would include management perspectives, funding limitations or challenges, and a vast array of other things. Again, several hundred recommendations from the report.

But I know that we requested the oversight hearing. We tried to schedule a field hearing because there is just not a replication that we can bring here that shows you what things look like on the ground. So to the extent the Committee is willing, we would love to have you. Somewhere out West, I think, would be a good example to show you some of the work that is happening on the ground, some of the impacts that are happening from wildfires, insect, and disease, and some of the tools that Tribes are using to help mitigate that.

Ms. HOYLE. Great, I absolutely agree. And again, I know that the Pacific Northwest is leading the way. And being able to have our colleagues come out and see what is happening there and, again, figuring out solutions to make sure that we are being as efficient as possible in managing our forests would be beneficial for everyone.

Thank you so much for answering the questions.

Mr. HURD. The gentlelady yields back. Thank you very much. The Chairman now recognizes the member from Washington, Ms. Randall, for 5 minutes of questions.

Ms. RANDALL.

Ms. RANDALL. Thank you so much, Mr. Chair, and thank you again to all of you here before us sharing your experience with the Subcommittee so that we can better support this incredible work that you are doing.

President Capoeman, you mentioned a little bit of this in your testimony, but I am wondering if you can expand some about the importance of asserting greater self-governance over the issues directly impacting areas like forestry. Why is it so important?

Mr. CAPOEMAN. Well, first off, the most important part is that all of us Tribes, you know, have lived in these areas, you know, since the beginning of time. And we know how to manage the resource, whether it be the water, fish, timber, land, air, all of these things. You know, we know how to do this. And how that impacts our tribal members on the ground every day is what matters not just for today, but for those yet unborn. That is the critical piece for all of us. And how we do that, that has been the mystery for us working

with Federal agencies is how do we put that piece together to make that happen.

You know, at least in Quinault's case, we have had a relationship with the Federal Government for 170 years, and it is weighted more towards a bad relationship more than it is a good relationship. We want to turn that around. The best way to turn that around is to allow us the inherent right to govern our resources in a way that we feel is best because that is what works. That is what truly works.

And if you come down and you look at our reservation and you see how some of the things we have implemented there to protect habitat, to protect land, it truly is working for us, and that is the model. Those are some of the models we would like to see go forth. And we have recommended some of those things in this document here as a way to get this to the next stage. And so I hope the Committee really considers keeping this on as a project that is not just a project, but something that is there and that Tribes can use, and no longer a demonstration project, but something that is done. So that is what we would like to see.

Ms. RANDALL. Thank you. And you know, we have heard that you are still in the process of finalizing the Indian Trust Asset Management Plan under ITARA. Can you speak a little bit to the successes, but also the ongoing challenges you faced as you navigate this process?

Mr. CAPOEMAN. Yes, yes. I think a lot of the challenges have been, like I said, the follow-through from the BIA on how we should do this, the communication piece.

I mean, it seems to me like there is a force. The BIA is the force. It has been done a certain way for so many years, it has been done this way by the BIA, that there is like an ownership, there is a fear of letting go and letting Tribes do what we have done. And I think that is what has been holding this up. And how we get beyond that is we have more hearings like this, I mean, we have some action plans that come out of this that guide us to a more complete project.

Ms. RANDALL. Thank you so much.

And Ms. Schulz-Oliver, just a few seconds. Can you touch on how the trust asset management plans can be a strategic tool for climate resilience, which is such an important issue for I know those of us on the Olympic Peninsula?

Ms. SCHULZ-OLIVER. Yes, thank you for that. I think one of the key elements of the plans is that Tribes can elevate their priorities. And many of our Tribes, especially in the ATNI region, do have an eye to making sure that our resources are protected from the impacts of any climate actions.

Ms. RANDALL. I yield back.

Mr. HURD. The gentlelady yields back. I want to thank the witnesses for their valuable testimony and also my colleagues, the members, for their questions.

Members of the Committee may have some additional questions for the witnesses, and we would ask that you please respond to those in writing. Under Committee Rule 3, members of the Committee must submit questions to the Committee Clerk by 5 p.m. on

Friday, February 28, 2025. The hearing record will be held open for 10 business days for these questions.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 3:25 p.m., the Subcommittee was adjourned.]

