

**TESTIMONY OF
JODI GILLETTE
DEPUTY ASSISTANT SECRETARY INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 1461, MESCALERO APACHE TRIBE LEASING AUTHORIZATION ACT**

Good afternoon Mr. Chairman and Members of the Subcommittee. My name is Jodi Gillette. I am the Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). I am here today to provide the Department's position on H.R. 1461, the Mescalero Apache Tribe Leasing Authorization Act.

The Administration strongly supports the principles of self-determination and self-governance, and recognizes that intrinsic to these principles is tribal control over tribal resources. Like tribal homelands, water is essential to the health, safety, and welfare of Native people, and tribal governments are in the best position to determine how their water will be used. Accordingly, the Department supports H.R. 1461 with the amendments discussed below.

H.R. 1461 would enable the Mescalero Apache Tribe to lease its adjudicated and quantified water rights for use within the State of New Mexico for up to 99 years. The term "adjudicated water rights" is defined as those rights adjudicated to the Tribe in *State v. Lewis*, 861 P. 2d 235 (N.M. Ct. App. 1993). In leasing its adjudicated water rights, the Tribe would have to comply with New Mexico laws and regulations. In addition, the bill expressly states that the Tribe may not permanently alienate any of its adjudicated water rights.

The ability to lease water rights under H.R. 1461 is consistent with the Department's long-standing support for leasing quantified water rights recognized in Indian water rights settlements. Leasing is an important and acceptable way for which tribes may achieve economic value from use of their resources. The Department believes that the policy on approval of water leases should parallel aspects of its policies on approving leases of land. The Department recommends including language in the bill that provides that the Tribe shall develop a tribal water leasing code and submit such code to the Secretary of the Interior for approval. The tribal water leasing code should include provisions under which the tribe would identify and mitigate impacts that could potentially result from water leasing. Following this one-time approval of a tribal water leasing code, the Tribe would then have the authority to approve its own leases of water. In addition, the Department recommends that language should be added clarifying that the bill applies to water leases off the Tribe's reservation.

This concludes my prepared statement. I will be happy to answer any questions the Subcommittee may have.

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FOR INDIAN AFFIARS
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UNITED STATES DEPARTMENT OF THE INTERIOR
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SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
NATURAL RESOURCES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
ON H.R. 1556**

September 22, 2011

Good afternoon, Chairman Young, Ranking Member Boren, and members of the Subcommittee. My name is Jodi Gillette. I am the Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to provide testimony on behalf of the Department on H.R. 1556, a bill to amend the Omnibus Indian Advancement Act (Omnibus), Pub. L. No. 106-568 (2000).

In 2000, President Clinton signed into law the Omnibus Indian Advancement Act (Omnibus Act). Title VIII, Subtitle B, of the Omnibus Act provides that certain land in Santa Fe, New Mexico, upon which the Santa Fe Indian School is located, is to be held in trust for the benefit of the 19 Pueblos of New Mexico, and requires that such land be used solely for the educational, health, or cultural purposes of the Santa Fe Indian School.

H.R. 1556 seeks to amend the Omnibus Act so that those lands taken into trust for the 19 Pueblos of New Mexico (Santa Fe Indian School Property) under the Omnibus Act can also be used for economic development projects that go toward the educational, health, or cultural purposes of the Santa Fe Indian School. The Department understands that the 19 Pueblos, for whom the property is held in trust, seek to generate revenue through the allowed land use for economic development projects, and the revenue from those projects would go toward the improvement and maintenance of the Santa Fe Indian School Property and would also go toward the educational, health and cultural purposes of the Santa Fe Indian School. The Department supports the allowed land use for economic development projects and also supports the continued effort for such projects' benefits to go toward the education, health and cultural purposes of the Santa Fe Indian School.

The Department supports H.R. 1556 and looks forward to the opportunity to work with this Subcommittee, the bill sponsor, and the 19 Pueblos in New Mexico to ensure the passage of H.R. 1556. This concludes my prepared statement. I will be happy to answer any questions the Subcommittee may have.

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U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 2444, TRIBAL SELF GOVERNANCE ACT OF 2011**

SEPTEMBER 22, 2011

Good afternoon, Chairman Young, Ranking Member Boren, and members of the Subcommittee. My name is Jodi Gillette. I am the Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to provide testimony on behalf of the Department on H.R. 2444, the Tribal Self-Governance Act of 2011.

H.R. 2444 seeks to amend both Title I and Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA or Act) (25 U.S.C. §§ 450 *et seq.*). The Administration strongly supports the principles of self-determination and self-governance, and consistent with this support we believe the ISDEAA should be strengthened to make it work better for the Federal government and for Indian tribal governments. Accordingly, the Administration supports H.R. 2444 as introduced.

President Obama recognizes that federally recognized Indian tribes are sovereign, self-governing political entities that have a government-to-government relationship with the United States, as expressly recognized in the United States Constitution. Secretary Salazar, too, is a strong supporter of the principle of tribal self-determination, the principles of the ISDEAA, and is committed to working to fully enable tribal self-governance.

In 1975, the Congress enacted the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (Title I). Title I allows a tribe to contract individual programs away from the Department of the Interior (Department) and let the tribe operate the programs. Title I also gives a tribe redesign and rebudgeting authority for Federal programs that it assumes.

In 1988, Congress enacted Title III of the ISDEAA as a demonstration project, which allowed an Indian tribe to contract several programs from the Department, and allowed Indian tribes to reallocate funds and redesign those programs to best benefit their communities. In 1994, Congress made the demonstration project permanent in Title IV of the ISDEAA, Pub. L. No. 103-413.

Title IV provides resources to Indian tribes, enabling them to plan, conduct, consolidate, and administer programs, services, functions, and activities for tribal citizens according to priorities established by their tribal governments. Under Title I and Title IV, Indian tribes have greater control and flexibility in the use of these funds, reduced reporting requirements, and the authority to redesign or consolidate programs, services, functions, and activities. In addition, Title I and Title IV allow Indian tribes to reallocate funds during the year and carry over unexpended funds into the next fiscal year without Secretarial approval. As a result, these funds can be used with more flexibility to address each Indian tribe's unique condition.

Funding agreements under the ISDEAA have helped to strengthen government-to-government relationships with Indian tribes. Self-determination and self-governance tribes have been good managers of the programs they have undertaken. Many times, tribal governments add their own resources to the programs and are able to fashion programs to meet their needs and the particular needs of their members. Tribal governments are often better suited than the Federal government to address the changing needs of their members. Indian tribal governments have often observed that, when they are working under self-determination contracts and self-governance funding agreements, they are not viewed by the Federal government as just another Federal contractor, but rather that their work reflects a true government-to-government relationship characterized by mutually agreed-to responsibilities and tribal empowerment.

For nearly a decade, Indian tribes have tried to update Title I and Title IV to address various issues, to include more non-BIA programs and to streamline the process of negotiating annual funding agreements. The Department recognizes the need for the self-determination and self-governance programs to evolve to improve and increase the frequency of funding agreements. The Administration is proud to report that, after a series of negotiations that began in early 2011 with tribal stakeholders, we have reached agreement on a number of issues and the language agreed upon is embodied in H.R. 2444.

Our agreement on this critical legislative priority for Indian Country reflects the Administration's commitment to restore the integrity of the government-to-government relationship with Tribal Nations. The Native American communities in this country confront many challenges, and this Administration is committed to working with Tribal Nations to create opportunities for all of our communities to thrive and flourish. We believe that H.R. 2444 goes a long way toward this goal.

This concludes my prepared statement. I will be happy to answer any questions the Subcommittee may have.