

Testimony before the House Natural Resources Subcommittee on Indian and Insular Affairs - Unlocking Indian Country's Economic Potential

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I. Introduction

Good Morning, Chair, Ranking Member, and members of the subcommittee. My name is Jason Robison, I am the Lands and Resources Officer for the Cow Creek Band of Umpqua Tribe of Indians (Tribe). On behalf of Tribal Chairman Carla Keene, and Vice Chair Gary Jackson, I want to thank you for the opportunity to testify today regarding unlocking Indian country's economic potential.

I want to first commend the efforts by this subcommittee, the administration, and Tribal leaders across the country for seeking innovative approaches to promoting Tribal self-governance, and providing more opportunities to Tribes to manage tribal lands and resources according to Tribal values, goals, and objectives. It is a goal we all share and the Tribe welcomes this opportunity to participate in discussions which could help shape new opportunities for Tribes throughout the country.

II. Background

Cow Creek is one of nine federally recognized Tribes in the State of Oregon. The Tribes has just over 1900 tribal members, and it's governed by an elected eleven-member council known as the Tribal Board of Directors. Cow Creek has a rich history in southern Oregon that reflects hard work, perseverance and the desire to be self-reliant.

Cow Creek owns and manages approximately 38,000 acres of land within Oregon, comprised of approximately 15,000 acres of fee land and 23,000 acres of trust land. Approximately 30,000 acres are managed for timber production and other important cultural, and forest values. In January 2018, the Western Oregon Tribal Fairness Act (WOTFA) conveyed approximately 17,800 acres of forest land previously managed by the Bureau of Land Management (BLM) to the Tribe to fulfill their promise of a reservation.

The Tribe is the second largest employer in Douglas County, employing approximately 1,000 tribal and non-tribal people. The Umpqua Indian Development Corporation (UIDC) is the Tribe's primary economic development engine. Under its auspices, the Tribe operates several businesses for the benefit of tribal members, local residents, and the surrounding community. These businesses provide much needed revenues for Tribal government operations that support the following services: social services, housing, education, health care, and elders care. These business also help fund resource management activities.

III. Self Determination

The Tribe is a strong advocate for Indian self-determination and self-governance. We operate our governmental programs under a self-governance compact approved by the Tribe and Secretary of the Interior. Under the compact, the Tribe has been able to redesign programs and carryout activities under

tribal policies and procedures rather than burdensome processes contained in federal manuals and handbooks. This has allowed more efficient operations which better serve the interests of our tribal membership and our environment.

IV. Non-Intercourse Act, Leasing Authority, and the Hearth Act

On June 1, 2018, the President signed the Oregon Tribal Economic Development Act, Pub.L. 115-179, which clarified that transactions involving land owned in fee by Cow Creek and other Oregon Tribes were not subject to the Non-Intercourse Act, 25 U.S.C. §177, which generally prohibits tribal conveyances of tribal **trust** land without Congressional approval. While the Non-Intercourse Act does not apply to fee lands, individuals without a solid understanding of Indian law sometimes apply it to fee lands, limiting a tribe's ability to use real estate for economic development purposes. In these situations, Congress must step in to clarify that lands may be sold. The Oregon Tribal Economic Development Act makes it crystal clear that Cow Creek may sell or otherwise develop its fee lands free from federal interference, improving its ability to create economic opportunities while protecting the environment at or above Federal environmental standards.

In 2010, Congress passed a bill to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Indians of Oregon, the Coquille Tribe of Oregon, and the Confederated Tribes of the Siletz Reservation, Oregon, to obtain 99-year lease authority for trust land.

Ninety-nine year lease authority has provided the Tribe with the opportunity to package longer-term business arrangements on Tribal lands. Additionally, the HEARTH Act has also provided opportunities for expanded lease authorities on Tribal lands in addition to allowing the Tribe to develop its own regulations and policies approved by the Secretary of the Interior. These policies will help streamline future business leasing opportunities for the Tribe. It also creates certainty for Tribes which is a must, if we are to eventually achieve self-determination and self-governance.

These types of authorities and actions provide Tribes with the ability to conduct business in a more competitive and attractive environment. Without these types of authorities and actions Tribes are being punished and held at a substantial disadvantage.

V. Potential benefits of Restricted Fee Land

Restricted fee title is one classification of Indian lands; however, very few tribes have the opportunity to use this status to their advantage. We recommend this committee pursue opportunities to expand the use of this land designation across Indian country by creating an administrative process for this land designation. This could significantly reduce barriers to Tribal business development on fee lands while allowing the Tribe to hold title to the land and protect the land against alienation.

VI. Land Management /ITARA Demonstration Project

The Cow Creek were one of the first tribes in the country to enter into the Demonstration Project established under Section II of the Indian Trust Asset Reform Act (ITARA). This act, which passed Congress and was signed into law in June of 2016, allows Tribes to take another step in self-determination in management of their Tribal trust forestlands. Under the ITARA Demonstration Project, the Tribe prepared an Indian Trust Asset Management Plan (ITAMP) for forest management.

The ITAMP was approved by the Secretary of the Interior in December 2018. Under the approved ITAMP, the Tribe performs forest management activities under Tribal law and Tribal forestry regulations rather than the federal rules contained in 25 CFR Part 163. Numerous forest management actions which previously required federal agency approval and could take a year or more to implement are now approved solely by the Tribe and implemented in a matter of a few months or less while still meeting Federal standards.

Our forest management under ITARA has been a resounding success resulting in a high level of sustainable timber production generating revenue to the Tribe for its governmental programs and providing jobs to local and state industries, as well as log supply to the local timber industry. The streamlined processes accomplished under tribal authority have also resulted in implementation of actions to reduce wildfire risk, improve forest health and enhance cultural values of our Tribal forestlands. Rather than federal control, ITARA has allowed advancement along a pathway to achieve the Tribal vision for our forest. This is another example of our success in strengthening tribal sovereignty. We would like to see this authority become permanent.

The Tribe has also taken steps to utilize authorities under the Tribal Forest Protection Act (TFPA), and the Agricultural Improvement Act (FARM BILL), to develop Co-management agreements with adjacent federal land managers. The Tribe was recognized during the White House Tribal Nations Summit as having one of the largest Tribal Forest Protection Act proposals, and the largest Forest Service self-determination agreement to date. We are currently working to secure similar agreements with the Department of Interior, and the Oregon/Washington BLM. These authorities and agreements add to the list of tools that have been made available to tribes for managing and protecting Tribal members and Tribal resources. We would request this subcommittee assess new authorities that compliment or expand these types of opportunities for Tribes.

VII. Fixing Long-term Issues in Indian Country and Promoting Self-governance

It is our hope that we can continue to work together across Indian country to fix lingering legislative issues like the non-intercourse act, 99 year lease authority, the use of restrictive fee status, and others in order to provide all of Indian country the same opportunities. It is also our hope that by working together we can promote new legislation that empowers Tribal governments; increases business opportunity for Tribes; promotes Tribal sovereignty and self-governance; and, reduces the costs and administrative burdens of federal oversight on all designations of Tribal lands (Fee, Restricted Fee, and Trust).

We recommend that this sub-committee look to legislation like the HEARTH Act, and the Indian Trust Asset Reform Act as good examples of what works well in Indian Country.

VIII. Closing

In closing, I would like to thank you for the time and opportunity to present testimony today regarding unlocking Indian country's economic potential because the Cow Creek Tribe is at the forefront of many of these new laws and would welcome the opportunity to work with this committee and you to draft new legislation. Again, thank you and I will be happy to answer any questions you may have.