

**STATEMENT OF
BRYAN NEWLAND
ASSISTANT SECRETARY FOR INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE UNITED STATES
SENATE COMMITTEE ON INDIAN AFFAIRS**

May 3, 2023

Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Bryan Newland, and I am the Assistant Secretary for Indian Affairs at the U.S. Department of the Interior (Department).

Thank you for the opportunity to present the Department's view on S. 195, Keweenaw Bay Indian Community Land Claim Settlement Act of 2023, S. 382, Puyallup Tribe of Indians Land into Trust Confirmation Act of 2023, and S. _____, Unlocking Native Lands and Opportunities for Commerce and Key Economic Developments Act of 2023.

S. 195, Keweenaw Bay Indian Community Land Claim Settlement Act of 2023

S. 195 would settle the Keweenaw Bay Indian Community's (KBIC) claims to certain lands within the exterior boundaries of the L'Anse Indian Reservation in Michigan. Specifically, the bill authorizes the Secretary of the Interior (Secretary) to provide monetary compensation to the KBIC for certain lands while extinguishing any claims by the KBIC to those lands to provide title certainty to current owners. The bill's findings and purpose sections provide key details on the claims by the KBIC and process by which the lands were transferred.

As detailed in the finding section of S. 195, the KBIC was wrongfully dispossessed of lands reserved in the 1842 Treaty of La Pointe and 1854 Treaty of La Pointe that were subsequently conveyed to the State of Michigan under the Swamp Land Act of 1850 and the Canal Land Act of 1852. The KBIC lost 2,743 acres of land under the Swamp Land Act and between 1,333.25 to 2,720 acres of land under the Canal Land Act. The loss of this land has negatively impacted the ability of KBIC to exercise cultural, religious, and subsistence rights on the land as well as prevented economic growth.

S. 195 authorizes the appropriation of \$33.9 million to the Secretary to transfer to the KBIC as compensation for the loss of the lands under the Swamp Land Act of 1850 and the Canal Land Act of 1852. The funds may be used by the KBIC for any lawful purpose including governmental services, economic development, natural resources protection, and land acquisition, but restricts the funds from being used to acquire land for gaming purposes.

The bill reflects the Department's understanding that the KBIC does not wish to reassert authority over the lands. S. 195 specifies that when the KBIC receives the monetary compensation, all claims by the KBIC to the lands lost under the Swamp Land Act of 1850 and

the Canal Land Act of 1852 are extinguished and the title of current owners of those lands are cleared of all preexisting rights held by the KBIC or any KBIC members.

The Department applauds the Tribe's cooperative approach toward a meaningful resolution to their claims and supports S. 195.

S. 382, Puyallup Tribe of Indians Land into Trust Confirmation Act of 2023

S. 382 directs the transfer of approximately 17.264 acres of Puyallup Tribe fee lands in Pierce County, Washington to be taken into trust for the Tribe's benefit. The lands will be part of the Puyallup Reservation and will not be eligible for class II or III gaming under the Indian Gaming Regulatory Act. Importantly, S. 382 stipulates that the federal government is not liable for any environmental contamination that occurred on the lands prior to the date that land is taken into trust.

Environmental assessments conducted by the Puyallup Tribe identified potential soil and ground water contamination from petroleum products, fuels, and wood preservatives that may have been used at the historical mill on the lands. The environmental assessment also identified undocumented fill and potentially "refuse fill", and potential arsenic and metals contamination in the soil possibly associated with the Tacoma Smelter Plume. An additional environmental assessment by the Puyallup Tribe identified gasoline and diesel-range hydrocarbons, various metals, and polycyclic aromatic hydrocarbon contamination in the fill materials, as well as diesel-range hydrocarbons and naphthalene in the groundwater on the lands.

The Department has previously advised the Puyallup Tribe that congressional action to transfer the Pierce County tribal fee lands into trust is a better option than the Department's fee-to-trust land acquisition process due to legacy pollution identified in the environmental assessments. The anticipated remediation plan on the lands would be cost-prohibitive for the Puyallup Tribe.

S. 382 would prevent a long and costly remediation process and ensure that the lands are restored to the Puyallup Tribe as they continue to rebuild and develop their homelands. The Department supports S. 382.

S. ____, Unlocking Native Lands and Opportunities for Commerce and Key Economic Developments Act of 2023 (UNLOCKED Act)

Since the enactment of the Non-Intercourse Act of June 30, 1834, and predecessor statutes, land transactions with Indian Tribes were prohibited unless specifically authorized by Congress. The Act of August 9, 1955, or the Long-Term Leasing Act (LTLA) provides the authority for Indian Tribes to enter into surface leases with third parties with the approval of the Secretary of the Interior. The LTLA limits lease agreement to 25-year terms with an option to renew for an additional 25 years.

Indian Tribes engage in a diverse array of activities to facilitate economic development, and many have required lease agreements for terms longer than 50 years on their lands. Authorizing Indian Tribes to lease their trust lands for terms longer than the 50-year maximum requires Congress to amend the LTLA to add Tribes' names to it. Since its enactment in 1955, Congress has added 60 Indian Tribes to the LTLA for this purpose. Each addition has required separate legislation, which is time consuming and resource draining for Tribes.

The UNLOCKED Act amends the LTLA to authorize leases of up to 99 years and provides clarity by creating subsections to emphasize that the LTLA authorizes leases for certain purposes, and that a lease for such purposes can include the necessary utilization of natural resources. The UNLOCKED Act also amends the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) to include rights-of-way. Lastly, the UNLOCKED Act makes technical corrections to ensure references specify that the authorities are those of the Secretary of the Interior.

The Department welcomes Congressional action to amend the LTLA to authorize leases up to 99 years and expand the HEARTH Act to rights-of-way. The HEARTH Act was a significant step forward to restoring Tribes' ability to control and lease their land under their approved HEARTH Act regulations without further approval from the Department. So far, 82 Tribes have adopted and regulate the leasing of their Tribal trust lands. The implementation of this program has been a success, and a great help to Indian Tribes in facilitating economic development.

The Department supports the UNLOCKED Act to authorize any Indian Tribe to lease lands for up to 99 years and include rights-of-ways in the HEARTH Act. These changes would facilitate economic development opportunities and truly unlock potential in Indian Country.

Conclusion

Chairman Schatz, Vice Chairman Murkowski, and Members of the Committee, thank you for the opportunity to provide the Department's views on these important bills. I look forward to answering any questions.