

Testimony of Cody Desautel
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&
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Before the Senate Committee on Indian Affairs
Hearing on Native priorities for the 2023 Farm Bill Reauthorization
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I am Cody Desautel, President of the Intertribal Timber Council (ITC) and Executive Director for the Confederated Tribes of the Colville Reservation in Washington State. On behalf of the ITC and its more than 60 member Tribes, I appreciate this opportunity to speak about the ITC's priorities for the next Farm Bill.

We appreciate the work this committee and its members did to provide tribes with new authorities in the 2018 Farm Bill. In the years since, the ITC has worked with tribes across the country and federal agencies to make sure those authorities are understood and utilized. Tribes are an important part of landscape scale forest restoration that is needed in every region of the United States.

All of America's forests were once inhabited, managed and used by Indian people. Today, only a small portion of those lands remain under direct Indian management. On a total of 334 reservations in 36 states, 19.3 million acres of forests and woodlands are held in trust by the United States and managed for the benefit of Indians.

Tribes actively manage their forests for multiple uses, including economic revenue, jobs, cultural foods and materials and for other cultural purposes. Catastrophic wildfire can negatively impact all of these uses for multiple generations.

The risk of wildfire to Indian lands is compounded by the thousands of miles of shared boundary with federal agencies, primarily the U.S. Forest Service and Bureau of Land Management. There are countless examples of wildfire spilling over from federal lands onto tribal forests, causing significant economic and ecological losses. These fires regularly pose a risk to human life on Indian lands and have resulted in fatalities.

Congress recognized the need for tribes to work closely with their federal neighbors to reduce the threat of fire across shared boundaries. The result was the Tribal Forest Protection Act ("TFPA"), which allows tribes to petition the Secretaries of Agriculture and Interior to perform stewardship activities on their lands adjacent to Indian lands.

The 2018 Farm Bill not only expanded TFPA authorities but also gave tribes and counties the authority to enter into Good Neighbor Agreements with federal agencies. Unfortunately, a drafting error in the final text precludes tribes or counties from retaining revenue generated from GNA projects for planning. This is a key component of building

successful GNA stewardship programs as states have done since 2014.

GNA provides tribes and federal agencies an additional tool for improving forest health across boundaries. While the scope of GNA projects is slightly narrower than what tribes may accomplish with TFPA and 638 authorities, GNA provides greater latitude in retaining project revenues and building additional capacity.

There is freestanding legislation in the Senate to make the necessary correction to this issue: S.697, the “Treating Tribes and Counties as Good Neighbors Act,” sponsored by Senator Risch.

With respect to TFPA, the ITC recommends expansion to TFPA authority. First, we would like to see the 638 contracting authority expanded to include additional Forest Service/BLM functions within the context of an approved tribal co-management/co-stewardship agreement. The Secretaries would be authorized to carry out forest management demonstration projects by which tribes may contract to perform administrative, management, and other functions of federal programs under applicable co-management agreements. Demonstration projects may include project planning areas of up to 50,000 acres.

The ITC also recommends creating broad pilot authority for 638 agreements within USDA, and beyond the TFPA structure. This could cover all of the Forest Service and Natural Resource Conservation Service.

OTHER ITC FARM BILL PRIORITIES

Tribal Firefighter Pay Parity: The Bipartisan Infrastructure Law authorized increased pay for “federal” firefighters. However, the law has been interpreted to exclude firefighters operating under a “638” contract pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA). Without statutory and administrative changes, these tribal firefighters – fighting federal fires on federal lands -- are treated the same as contractors subject to the Federal Acquisitions Regulations (FAR). Such an interpretation fails to capture the unique relationship between tribes and federal agencies.

In its FY24 budget justification, the Biden Administration proposes legislation –and the ITC supports -- to establish a special base-rate salary table for wildland firefighters, create a new premium pay category that provides some additional compensation for all hours a wildland fire responder is mobilized on an incident, and establish a streamlined pay cap that provides waiver authority to the Secretary using specific criteria.

Large Landscape Scale Restoration Program Technical Correction: The 2018 Farm Bill authorized this program which clearly intended to include Indian tribes, and the term itself was included in the definitions of various landowners to participate in the program. While the USDA has correctly decided that Indian tribes are eligible, the ITC

recommends a technical change to the statute to ensure tribal participation is not challenged in the future.

Tribal Biomass Demonstration Project: This program was authorized in Public Law 115-325 (“Indian Tribal Energy Development and Self-Determination Act Amendments of 2017”) and directed the Secretary of the Interior to enter into contracts/agreements with Indian tribes for biomass projects by providing “reliable supplies of woody biomass from Federal land.”

The demonstration project expired in 2021 without any significant agreements with tribes accomplished. The ITC recommends extension of this authority for five years.

Small/Isolated Parcel Conveyance Authority: Current law provides a process for the conveyance (at no cost) of excess federal real property to the Secretary of the Interior when such property is located “within the reservation of any...tribe.” (40 U.S.C. §523). Additionally, the Forest Service has had limited authority to convey excess buildings/structures and associated land. The BLM has limited authority (under the Recreation and Public Purposes Act) to sell public lands for public purposes to state and local governments, and certain non-profit organizations. The ITC recommends providing the Forest Service and BLM with pilot authority to convey (at no cost) small, isolated parcels of land to the Secretary of the Interior to be held in trust when such parcels are 1) adjacent to Indian lands and 2) of such small size and isolation as to make Indian forest management a more practical option for maintaining forest health and resilience.