

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ON S. 375, H.R. 2863, H.R. 1696, and H.R. ____**

July 11, 2007

Good morning, Mr. Chairman and Members of the Committee. My name is Mike Smith. I am the Deputy Bureau Director for Field Operations for the Bureau of Indian Affairs (BIA) at the Department of the Interior (Department). I am here today to provide the Administration's testimony on three separate pieces of legislation: S. 375, a bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian Tribes in the State of Oregon, and for other purposes; H.R. 2863, a bill to authorize the Coquille Indian Tribe of the State of Oregon to convey land and interests in land owned by the Tribe; and H.R. 1696, a bill to amend the Ysleta del Sur Pueblo and Alabama Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that Tribe. The first two bills concern issues that are impeding economic development plans and opportunities for three Self-Governance tribes. The third bill amends a restoration Act concerning one tribe's membership criteria.

I am unable to comment today on a fourth piece of legislation, H.R. ____, a bill to authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in land owned by the Tribe, because the bill was not introduced at least a week prior to the hearing.

S. 375

S. 375 concerns a reversionary clause in a deed issued by the BIA that transferred land to the Confederated Tribes of the Siletz and the Confederated Tribes of the Grand Ronde (Tribes) under the authority provided within the Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended. The Bureau of Indian Affairs intended to transfer the land so that the Tribes could develop it as they wanted. However, the BIA was constrained by the requirements of Public Law 93-638, including the requirement to include a reversionary interest in the deed. The reversionary clause would cause the lands to be returned to the government in the event that the tribes ceased to use the lands for economic purposes. The BIA did not anticipate that the reversionary interest would create the financing difficulties that the Tribes have encountered in completing their economic development plans for the property.

We understand that the parcel of land is located in the City of Keizer, Oregon, and the land is an integral component of a major commercial development. The tribal property development master plan includes: development of a gas station, restaurants, retail space and flex office space.

We support the enactment of S. 375, to waive the application of the Indian Self-Determination and Education Assistance Act to the transfer of real property that was once a part of the Chemawa Indian School campus to the Tribes. In so doing, a new deed would be issued that would no longer include a reversionary interest or restriction on the right to alienate the property.

We understand that clearing the title to the real property will allow the tribes to obtain conventional financing from commercial lending institutions and realize the full commercial potential of the property. We have no objection to section 2(c) of S. 375, which would expressly prohibit the use of the land for gaming purposes.

H.R. 2863

The Coquille Indian Tribe purchased 50.5 acres of off-reservation land in the City of North Bend, Oregon. The lands are on the waterfront and are the site of the former Weyerhaeuser Paper Mill. The area is known as the Ko Kwel Wharf and there are plans for a mixed size retail development.

One of the major investors in the site is the Home Depot. They will not sign a lease without legislation authorizing the Coquille Indian Tribe and the Coquille Economic Development Corporation to sell and lease these lands without the approval of the United States.

The Non-Intercourse Act, based on a 1763 proclamation of King George III and originally passed in 1793 by Congress, prohibits the conveyance of an interest in Indian land from any Indian tribe without the approval of the United States. There is some dispute whether fee land owned by a tribe would fall under this prohibition. We urge Congress to clarify this issue. Clarification will remove obstacles to economic development opportunities and it will enhance tribal sovereignty.

While we believe the Tribe has the authority to lease and convey its fee property as anyone else does who owns land within the United States, H.R. 2863 would provide important clarification. We do request however, that the bill be amended to limit the Secretary's liability for such leases, encumbrances, transfers, or conveyances. The lands held by the Coquille Indian Tribe in fee are subject to taxes and the laws of the state, county and municipality.

H.R. 1696

Indian tribes have the inherent authority to determine their membership. The Supreme Court has noted, "A tribe's right to define its own membership for tribal purposes has long been

recognized as central to its existence as an independent political community.” See *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978)

H.R. 1696 amends the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act by removing the blood quantum requirement for membership in the Ysleta del Sur Pueblo tribe. The language within the 1987 Act required that the Tribe’s members have a blood quantum of at least one eighth to qualify for tribal membership.

The Department is in receipt of copies of tribal resolutions from the Ysleta del Sur Pueblo Tribal Council in support of the change to the blood quantum requirements stated within the legislation.

The Administration supports the Tribe’s request to determine its criteria for membership. The Administration supports the policy of Self-Governance and Self-Determination for all federally recognized tribes.

H.R.

The Department is unable to provide a position on H.R. ___, a bill to authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in land owned by the Tribe, since the legislation was not introduced at least a week prior to the hearing.

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