

**TESTIMONY OF CODY DESAUTEL, PRESIDENT
INTERTRIBAL TIMBER COUNCIL
PRESENTED TO THE
HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON INDIAN & INSULAR AFFAIRS
OVERSIGHT HEARING ON “FEDERAL INDIAN TRUST ASSET MANAGEMENT:
PROGRESS MADE BUT IMPROVEMENT NEEDED”
FEBRUARY 25, 2025**

Thank you for holding today’s hearing to examine how to improve the management of Indian trust assets. As President of the Intertribal Timber Council, I will focus my comments on timber assets and the forest planning provisions of the Indian Trust Asset Reform Act (ITARA).

Background

Ten years ago, the ITC supported the Indian Trust Asset Reform Act -- particularly the Demonstration Project of Title II. The intent was to allow tribes greater control in the management of their natural resources to benefit their own communities. Unfortunately, implementation was slower than anticipated and tribal participation lower than expected.

The ITARA was passed by Congress and signed into law (Public Law 114-178) in June 2016. One month later, the Obama Administration initiated a series of nine tribal consultations on Title III of the Act, dealing with the functions of the Office of the Special Trustee and appraisals of Indian trust property. A proposed rule was published in the Federal Register by September 2016.

Shortly after passage of the Act, several tribes contacted the Department requesting participation in the demonstration project. A year later, the Department responded to these requests by informing tribes that the demonstration project had not yet been established and that a consultation process with tribes would need to be completed before tribes could re-submit their requests for participation.

The ITC formed a Title II working group in June 2017 to help facilitate further discussions among tribes and with the Department. The Department did not sign the first Indian Trust Asset Management Plan (ITAMP) pursuant to ITARA until October 2020 – more than four years after enactment.

P.L. 114-178 authorized the ITARA pilot project for ten years from enactment (June 2016). Therefore, the pilot authority is set to expire in June 2026. Given the extensive time it took for even the first project to be approved, the ITC strongly supports extension of the ITARA authority. The statute states that the ITARA authority “may be extended at the discretion of the Secretary.” We have continually requested the Secretary of the Interior to use his/her authority to do this. Of course, permanent extension is also possible by an Act of Congress.

Implementation Examples

Several ITC member tribes have successfully implemented ITARA and have approved ITAMP's for their forest resources. The first approved ITAMP was for the Coquille Indian Tribe in western Oregon. Coquille's ITAMP allow for tribal members, staff and leadership at various levels to be a part of the environmental review decision process and for those individuals to provide valuable knowledge, information and insights into the management of their communities' forest resources.

The Coquille Tribe's internal timeline for project review can be adjusted to facilitate their needs, and allows the Tribe to more quickly adapt to change by managing under their own laws. The Coquille Tribe reports that ITARA has allowed for efficiencies in budgeting and financial management by eliminating an intermediate fiduciary.

Since receiving approval, the Cow Creek Band of Umpqua Tribe of Indians ("Cow Creek") has actively engaged in forest management activities, demonstrating ITARA's effectiveness in promoting tribal self-determination, environmental stewardship, and economic sustainability.

ITARA has enabled Cow Creek to manage its forest lands under its own tribal laws and regulations, significantly reducing bureaucratic delays while streamlining review and approval processes. As a result, the Tribe has been able to:

- Dramatically reduce approval timelines for forest management projects.
- Advance forestry goals and objectives with greater autonomy.
- Swiftly access growing markets for forest products, optimizing revenue generation.
- Increase revenue streams, which are reinvested into vital services for tribal members.

Over the course of the demonstration project, the Tribe has successfully conducted numerous timber sale activities, including: regeneration harvest, commercial thinning, pre-commercial thinning, fuels reduction, and prescribed burning.

Cow Creek's commercial timber harvests demonstrate that a tribally led approach to land management is both efficient and economically beneficial not only for the Tribe but also for the local community. The Tribe's ability to act swiftly and strategically in forest product markets has resulted in enhanced financial returns and greater sustainability in forest resource utilization.

If you have travelled through Portland International Airport in Oregon, you'll note that it's a celebration of sustainably sourced wood products. Much of that wood was sourced from Pacific Northwest Indian Tribes. The wood provided by the Coquille Tribe came from their first timber sale pursuant to the ITAMP.

Independent Review by the IFMAT

The Committee is aware that the National Indian Forest Resources Management Act (“NIFRMA”) mandates an independent scientific review of Indian trust forests once every decade. The latest report from the Indian Forest Management Assessment Team (“IFMAT”) was presented to Congress in 2023 and contains hundreds of recommendations for the improvement of the management of Indian forests. The ITC reiterates its request of this committee to formally review the IFAMT report in an oversight hearing to ensure that its recommendations are being heeded.

The 2023 IFMAT report contains specific observations about ITARA, noting that approximately 80% of tribal trust forested acres (includes all categories) are managed wholly or partially under P.L.93-638 contracts, cooperative agreements, or self-governance compacts rather than direct service. This is 38% of all tribal forestry and fire programs.

The IFMAT observed that ITARA makes the current BIA manual and handbook approach to development and compliance with federal standards less relevant. Also, inconsistent requirements and guidance exist between BIA direct operations and self-governance tribes relating to trust oversight, trust standards and trust responsibility. The most recent IFMAT report also noted that tribes have a unique vision for forest management more focused on stewardship and non-timber forest products. To accommodate this, we recommend some changes to the reporting metrics used by the BIA, which has historically been focused almost exclusively on timber production.

As tribes continue to move towards self-governance and perform programs under ITARA, IFMAT found, the context of the inherent federal function and the relationship of the performance of this function in fulfilling the Secretary’s trust responsibility changes. This leaves a residual trust responsibility that is not well understood and can lead to underutilization of self-governance authorities.

IFMAT found that there are special benefits for tribes and BIA in carrying out forest management activities under ITARA and self governance generally. BIA rules and procedures have lagged the advance of self-governance creating limited progress and understanding of ITARA demonstration projects. ITARA promises self-governance benefits for interested tribes. However, many tribes have little or no knowledge about ITARA. Tribes carrying out forest management activities under ITARA are performing functions previously considered inherent federal functions performed by the BIA, yet funds are not made available to the tribes for these additional responsibilities.

IFMAT Recommendations

The ITC supports the recommendations of the IFMAT to improve its performance for tribes, including:

- Permanent extension of ITARA authority by the Secretary of the Interior or Congress;
- Redirect funds to tribes retained by the DOI/BIA for performing functions previously considered inherent federal functions but now carried out by tribes under ITARA. This reform would shift funds from the BIA to the tribes who are actually performing the functions and provide additional funds for tribes to achieve tribally defined state-of-the-art forest management;

- Funding, policy, and procedural guidance concerning ITARA implementation needs to be provided to BIA Regional offices;
- Establish a training program that provides BIA officials and tribal leaders with better strategies of engaging with self-governance tribes through a spirit of government to government and consistent with Congressional policy rather than domination. This is something the ITC is prepared to support BIA with, as we have done for implementation of other congressional authorities, such as the Tribal Forest Protection Act;
- Sources of funding should be better identified, and information provided to tribes about how to secure needed funding to participate in the ITARA Demonstration Project;
- Review, under ITARA, the context of the Secretary's trust responsibility and its fulfillment and changes in performance of inherent federal functions including related funding issues.

Conclusion

Thank you again for holding today's oversight hearing and your interest in improving the management of Indian trust assets, especially our forest resources.