

Senate Committee on Indian Affairs

Thursday, July 25, 2024

Business Meeting to Consider:

[S. 2783](#)- Miccosukee Reserved Area Amendments Act

[S. 3406](#)- Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act

[S. 4000](#)- A bill to reaffirm the applicability of the Indian Reorganization Act to the Lytton Rancheria of California, and for other purposes.

[S. 4365](#)- Veterinary Services to Improve Public Health in Rural Communities Act

Legislative hearing to receive Testimony on:

[S. 4370](#)- Tribal Forest Protection Act Amendments Act of 2024

[S. 4505](#)- A bill to approve the settlement of water rights claims of Ohkay Owingeh in the Rio Chama Stream System, to restore the Bosque on Pueblo Land in the State of New Mexico, and for other purposes.

Witnesses:

- [Thora Padilla](#), President of the Mescalero Apache Tribe
- [Benjamin Mallott](#), President-elect of the Alaska Federation of Natives
- [Larry M. Phillips Jr.](#), Governor of the Pueblo of Ohkay Owingeh
- [Canard Goodluck](#), Senior adviser to the assistant Interior secretary for Indian affairs in the Interior Department
- [John Crockett](#), Associate deputy chief for state, private, and Tribal forestry at the Agriculture Department

Highlights:

Each witness provided expert and local opinions on the various legislation. They cited local and Tribal knowledge, and as well as calling to attention the treaty rights and trust responsibilities. All of the proposed bills passed in a subsequent markup.

Opening Statements:

Tracy Canard Goodluck, a member of the Oneida Nation of Wisconsin and Muskogee Creek, addressed the Committee as a senior advisor to the Assistant Secretary for Indian Affairs at the Department of the Interior.

She presented the Department's support for S. 4505 and S. 4370, highlighting the U.S. obligation to protect Indian Tribes' homelands and improve federal forest and water stewardship with Tribal involvement.

S. 4370 aims to amend the Tribal Forest Protection Act to benefit Alaska Natives by expanding its scope and allowing cross-jurisdictional work. The Department plans to work with the Committee to clarify the Bureau of Indian Affairs' role in these projects.

S. 4505 seeks to settle water rights claims of the Ohkay Owingeh in the Rio Chama River Basin, addressing water supply reductions caused by non-Indian diversions. The bill proposes funding to restore and protect culturally significant lands, aligning with Tribal sovereignty and U.S. trust responsibilities.

John Crockett, Deputy Chief for State, Private, and Tribal Forestry at the Forest Service, addressed the Committee, sharing the Forest Service's perspective on S. 4370, the Tribal Forest Protection Act Amendments of 2024.

He highlighted the Forest Service's commitment to Tribal collaboration, trust responsibilities, and treaty rights. The agency has significantly increased its Tribal projects and funding, demonstrating growth in Tribal collaboration.

Crockett noted that S. 4370 aims to expand the definition of Indian forest and range lands to include Alaska Native corporation lands, enabling more collaborative work. The bill also seeks to remove the requirement that Indian lands border Forest Service or Bureau of Land Management lands, thus increasing Tribal participation. The Forest Service supports these changes and looks forward to working with the Committee to discuss the legal and administrative impacts, particularly the role of the Bureau of Indian Affairs.

Crockett concluded by expressing the Forest Service's support for expanding TFPA and fostering stronger Tribal relations.

Larry Phillips Jr., Governor of Ohkay Owingeh, addressed Chairman Schatz, Vice Chairman Murkowski, and the Committee, accompanied by Councilman Anthony Makino to show the council's support for the settlement.

Phillips emphasized the importance of the Bosque and water to Ohkay Owingeh, describing their cultural and ceremonial significance. He recounted how U.S.

actions in 1955 and 1956, including the channelization of the Rio Grande and the construction of Abiquiu Dam, devastated the Bosque and river flows.

The settlement seeks to restore water resources and the Bosque, marking the first Tribal water settlement addressing U.S. confiscation of Tribal lands and water. Phillips called for congressional approval and funding for the \$740 million comprehensive water rights settlement, which also includes a \$131 million local cost share from New Mexico. The settlement aims to improve water reliability, economic benefits, and cooperation among regional water users.

Phillips concluded by acknowledging the risks involved, stating that Ohkay Owingeh accepts the financial responsibility if project costs are underestimated.

Thora Padilla, President of the Mescalero Apache Tribe, testified in support of S. 4370, the proposed amendments to the Tribal Forest Protection Act (TFPA).

She emphasized the importance of forestry to the Mescalero Apache people and highlighted the Tribe's historical role in national Tribal forestry policies. Padilla praised the TFPA's success and advocated for expanding its reach and participation.

She supported eliminating the requirement that federal land must border Indian land, allowing Tribes to manage federal lands with historical or cultural ties. She also emphasized the need to include treatments on Indian lands to address funding shortfalls and proposed adding funding protections to improve implementation.

Padilla urged the Committee to expand the TFPA 638 forestry program, removing barriers and ensuring adequate funding. She highlighted the positive impact of including Tribal priorities in federal land management decisions and concluded by expressing readiness to answer questions.

Benjamin Mallott, Vice President and Director of the Alaska Federation of Natives (AFN), testified in support of Senate Bill 4370, the Tribal Forest Protection Act (TFPA) amendments.

He emphasized the importance of effective forest management for Alaska Native communities, which face challenges due to their remoteness and high costs.

Mallott highlighted that the original TFPA did not fully account for Alaska Native land ownership, limiting their participation in forest stewardship. He stressed the need to remove obstacles that prevent native communities from managing and protecting forests, especially given the increasing risks of wildfires and pests.

The amendments in S. 4370 aim to include Alaska Native corporations in TFPA, allowing for cross-boundary forest management. This change would help preserve forests, support self-sufficiency, and foster closer collaboration with federal agencies like the Forest Service and BLM.

Mallott urged the Committee to advance the legislation, aligning with federal trust responsibilities and providing essential tools for effective forest management in native communities.

Questions and answers:

Sen. Brian Schatz (D-Hawaii) asked Tracy Canard Goodluck about the DOI's current management of Indian forest and range lands under the TFPA. Goodluck explained that BLM lacks authority to manage these lands, which would change with the amendments in S. 4370, allowing BLM to manage or co-manage Tribal lands.

Schatz then asked John Crockett about the impact of expanding TFPA lands to include federal lands with special significance to Tribes. Crockett supported the intent, emphasizing increased Tribal access and input. However, he highlighted the need to clarify BLM and BIA jurisdictional roles, suggesting that agency-to-agency consultation and statutory clarification might be necessary to avoid future conflicts. Crockett also stressed the importance of engaging in Tribal consultation to address potential jurisdictional disputes between Tribes.

Sen. Lisa Murkowski (R-Alaska) followed up with John Crockett, seeking clarification on the USDA Forest Service's stance on S. 4370. Murkowski emphasized the need for clear support and pointed out inaccuracies in Crockett's testimony regarding the Forest Service's presence in Alaska. Crockett confirmed the Forest Service's support for the bill, including allowing agencies to use the Tribal Forest Protection Act (TFPA) and removing the adjacency requirement for TFPA projects. Murkowski stressed the importance of uniform criteria between agencies to avoid ambiguity, and Tracy Canard Goodluck of DOI indicated comfort with the current amendment language but was open to further interagency discussions if needed.

Sen. Ben Ray Luján (D-N.M.) expressed strong support for S. 4370 and highlighted its significance for restoring the Bosque and the Rio Chama, which are crucial to Pueblo culture. He appreciated the testimony from various witnesses and emphasized the bill's potential to enhance Tribal stewardship and improve forest management, especially in relation to wildfire prevention and cultural preservation. Luján also noted the economic benefits that could arise from expanding forest management opportunities, such as supporting local small businesses.

Sen. Lisa Murkowski (R-AK) asked Benjamin Mallott about the social, economic, and environmental benefits of expanding the Tribal Forest Protection Act (TFPA) to include Native communities and their lands in Alaska. Mallott highlighted that such expansion could provide significant cultural and economic opportunities, particularly through managing resources like cedar groves and addressing issues like spruce bark beetle infestations. He emphasized the potential for local job creation and community engagement in forest management. Murkowski concluded by recognizing the common ground across regions and the importance of meaningful partnerships to achieve both environmental and economic benefits.