

**S. 2599, THE LEECH LAKE BAND OF OJIBWE
RESERVATION RESTORATION ACT**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

—————
JULY 11, 2018
—————

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**S. 2599, THE LEECH LAKE BAND OF OJIBWE
RESERVATION RESTORATION ACT**

WEDNESDAY, JULY 11, 2018

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:58 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA**

The CHAIRMAN. Good afternoon.

We will call this hearing to order.

Today, the Committee will receive testimony on one bill. That is S. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act.

On March 22, 2018, Senator Smith introduced S. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act. If enacted, this bill would transfer approximately 11,760 acres of Federal land from the U.S. Department of Agriculture to the U.S. Department of the Interior for the benefit of the Leech Lake Band of Ojibwe.

At this time, I would like to turn to the Vice Chairman, Senator Udall, to offer any opening statement he may have.

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Chairman Hoeven, for calling today's legislative hearing.

The bill before us today addresses an issue of great importance to Indian Country, restoration of tribal homelands.

Senator Smith's bill, S. 2599, would return over 11,000 acres of tribal homeland to the Leech Lake Band of Ojibwe. For nearly a decade, beginning in the late 1940's, the BIA improperly authorized the sale of tribal member allotments without their consent.

These "Secretarial Transfers" resulted in thousands of acres being sold to the Forest Service and transferred to the Chippewa National Forest. With this legislation, Congress has the opportunity to right a historic wrong by returning stewardship of these lands to the people most capable, the Leech Lake Band of Ojibwe.

Thank you again, Mr. Chairman, for calling this hearing. I look forward to today's testimony.

The CHAIRMAN. We will now hear from our witnesses. I will turn to Senator Smith in a moment for purposes of introduction.

First, I would like to welcome Ms. Leslie Weldon, Deputy Chief for the National Forest System, U.S. Forest Service, U.S. Department of Agriculture, Washington, D.C. For our other honored guest today, I will turn to Senator Smith for the introduction.

Senator Smith.

**STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Chairman Hoeven, thank you so much for this hearing. Thank you very much Vice Chairman Udall for holding this hearing today on my bill, the Leech Lake Band of Ojibwe Reservation Restoration Act.

This hearing represents an important step forward as we move this legislation forward. The Leech Lake Band of Ojibwe Reservation Restoration Act seeks to restore 11,760 acres of land to the tribe that was wrongfully taken from them.

This bill comes after much negotiation and planning with both the tribe and the Forest Service. I would like to thank both Ms. Weldon and Chairman Jackson for being here today.

I would like to take a moment to introduce Chairman Faron Jackson of the Leech Lake Band of Ojibwe who is here to testify in support of this bill that would increase the limited land base the tribe currently has.

Also, out of friendship, I want to welcome you, Chairman Jackson, and also welcome your wife, Laurel, for being here. They had a lovely drive all the way down from Leech Lake to Washington, D.C., probably about a good two-day drive, to get here. Thank you for taking the time to be here.

Chairman Jackson has served as the Leech Lake Band of Ojibwe's chairman since July 2016. As chairman, he has skillfully served the 11 communities comprising the Leech Lake Indian Reservation.

During his tenure, he has worked to address the numerous challenges the Band faces and also capitalized on the many, many assets this Band has. He has worked hard on increasing and preserving Ojibwe culture, increasing safety on the reservation and also working hard on efforts to restore the Band's land, which is what brings us here today which is so important to the approximately 9,500 people that live on the reservation.

Chairman Jackson, I want to thank you for traveling to be with us today. I look forward to hearing both of your testimonies.

The CHAIRMAN. Thank you, Senator.

I want to remind the witnesses that your full written testimony will be made a part of the official record. Please keep your statements to no more than five minutes so that we have time for questions.

We look forward to hearing your testimony. We will proceed with Ms. Weldon.

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. WELDON. Thank you, Mr. Chairman, Vice Chairman and members of the Committee for inviting me to share the views of the U.S. Department of Agriculture on the Leech Lake Band of Ojibwe Reservation Restoration Act.

The Administration has some concerns with the bill and we are committed to working with the Committee and the Leech Lake Band to find solutions.

The Forest Service takes our responsibilities to the Leech Lake Band very seriously. In 2016, we began working with the Leech Lake Band on issues specific to the Chippewa National Forest and worked well together to address those issues for the benefit of the Ojibwe lifeways and the general public.

Since that time, the Forest Service and the tribe have engaged in a series of consultations in order to work through their specific management priorities.

I want to share my appreciation to Chairman Jackson and Forest Supervisor Darla Lenz for their productive working relationship and the outcomes we are beginning to see from that relationship.

I want to emphasize that the uniqueness of the landscape and the relationship between the Forest Service and the Leech Lake Band of Ojibwe in service to the guaranteed treaty rights the Band has.

The Forest Service and the Leech Lake Band officials have also met several times to discuss the issue of land transfer and to review the parcels that are a part of this. An initial review has been completed.

In the course of that, we further identified the administrative issues we want to make sure we can work through well as we finalize this bill. Those include how the ownership will be fragmented, our ability to manage boundaries and also being able to look at and address the changes in access, recreational opportunities that may occur in some areas of the forest as well as the ongoing activities around our managing timber sale contracts and over 100 special uses also occurring on these parcels, including rights-of-way, utilities, railroads and cemeteries.

We look forward to working with the Committee to address these issues and looking for those administrative solutions that will help us to do that.

The USDA Forest Service is committed to supporting and respecting the sovereignty of tribal governments as well as supporting our rural communities. We look forward to continuing to work with this Committee to ensure the prosperity of the Leech Lake Band and providing the benefits and services from the Chippewa National Forest in a way that engages with our public and the Band and offering solutions that can work for all.

I am happy to answer any questions you may have.

[The prepared statement of Ms. Weldon follows:]

PREPARED STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman, members of the Committee, thank you for inviting me to share the views of the United States Department of Agriculture on the Leech Lake Band of Ojibwe Reservation Restoration Act. The Administration has a number of concerns with this bill, but we are committed to working with the committee and the Leech Lake Band to find a working solution.

The Forest Service takes our responsibilities to the Leech Lake Band very seriously. In 2016, we began working with the Leech Lake Band on issues specific to the Chippewa National Forest, and solutions to those issues for the benefit of the general public and Ojibwe lifeways. Since that time, the agency and the tribe have engaged in a series of consultations in order to work through their specific management priorities.

The Forest Service and Leech Lake Band of Ojibwe officials have also met several times to discuss the issue of land transfer and review the parcel list. An initial review of the land parcels was completed and some parcels are no longer owned by the Forest Service. In the course of that review the Forest Service identified concerns that would arise if these lands were transferred.

Fragmented ownership and boundaries resulting from the transfer could also lead to less access and fewer recreation opportunities on some areas of the national forest, impact planned and existing timber sale contracts, and affect more than 100 documented special use permits and rights of way for roads, utilities, railroads and cemeteries.

We at the USDA Forest Service take seriously our mandate to support rural communities while respecting the sovereignty of tribal governments. We look forward to continuing to work with this committee to ensure the prosperity of the Leech Lake Band and all of the people who rely on the Chippewa National Forest.

This concludes my testimony. I am happy to take your questions at this time.

The CHAIRMAN. Thank you.
Chairman JACKSON.

**STATEMENT OF HON. FARON JACKSON, SR., CHAIRMAN,
LEECH LAKE BAND OF OJIBWE**

Mr. JACKSON. Chairman Hoeven, Vice Chairman Udall and members of the Committee, Boozhoo and greetings.

My name is Faron Jackson, Sr. I also want to acknowledge my Ojibwe name which is Ge Way Din. It means North Wind. It was given to me by my mother when my father passed away in 1998.

I am proud to serve as the Chairman of the Leech Lake Band of Ojibwe. I want to thank you for providing me the opportunity to appear before you today and for taking the time to review this legislation.

Further, Senator Smith, I want to thank you for introducing this important legislation and for working closely with Senator Klobuchar and your colleagues to advance it. You have been a true friend to the Leech Lake Band of Ojibwe and Indian Country as a whole.

The passage of this legislation is extremely important to our tribe and will go a long way to restore our limited land base while preserving the land for future generations.

To provide a brief background, the Leech Lake Band of Ojibwe is part of the Minnesota Chippewa Tribe, is comprised of over 9,500 members, and is headquartered in North Central Minnesota.

We hold the smallest percentage of our reservation of any of the State's tribes. Of the 864,158 original acres, nearly 300,000 acres are surface area of the three big lakes in our region. Further, the Chippewa National Forest holds over 75 percent of the land within

the boundaries of the reservation. This leaves less than 5 percent of land owned by the Leech Lake Band.

As you know, the legislation before you would transfer 11,760 acres of Chippewa National Forest land back to the Leech Lake Band of Ojibwe which was taken from owners of tribal allotments through a process called "Secretarial Transfers."

Starting in the year 1948, the Bureau of Indian Affairs incorrectly interpreted a Department of Interior executive order and believed that they had the authority to sell these individual tribal allotments without getting the consent of the rightful owners.

These sales ceased in 1955 following a memo that the Bureau of Indian Affairs received from the United States Field Solicitor that advised them that these sales were illegal.

The Leech Lake Band of Ojibwe has no immediate intention of changing the use of these lands. We would honor all current agreements and anticipate that these lands would be held until we develop a broader plan that will allow for a gradual subdivision of some of the tracts for economic and residential development.

The land will be open to the Native and non-Native members of the public to hunt, fish, explore, hike, bike and enjoy, as they do today.

A robust land base is the foundation of tribal sovereignty and self-determination. Lands from the geographic reach of our jurisdiction supports our residing tribal populations. It is the basis of our tribal economy, and provides an irreplaceable forum for our cultural vitality, practices and traditions.

Specifically, the lack of land has a direct impact on our ability to access adequate housing. This has been proven to jeopardize the health and safety of our tribal members and a remains one of the biggest issues within Indian Country today.

For us, passage of this legislation and securing of additional land is one of the critical components needed to continue our work to increase housing options and will positively impact members of our tribe now and for generations to come.

Once again, on behalf of the Leech Lake Band of Ojibwe, I want to say Chi-Miigwetch for the invitation to testify today. We know that there are many important matters which come before this Committee and we are honored that you would take the time to review this legislation.

As you have heard, this legislation would go a long way to restore the Leech Lake Band of Ojibwe's limited land base, while at the same time, honor current agreements and preserve the land for future generations to come.

I look forward to answering any questions you may have. Thank you.

[The prepared statement of Mr. Jackson follows:]

PREPARED STATEMENT OF HON. FARON JACKSON, SR., CHAIRMAN, LEECH LAKE BAND OF OJIBWE

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, Boozhoo and greetings. My name is Faron Jackson, Sr., and I am proud to serve as the Chairman of the Leech Lake Band of Ojibwe.

I want to thank you for providing me the opportunity to appear before you today and for taking the time to review S. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act. Further, Senator Smith, I want to thank you for introducing

this important legislation and for working closely with Senator Klobuchar and your colleagues to advance it. You have been a true friend to the Leech Lake Band of Ojibwe and Indian Country as a whole.

The passage of this legislation is extremely important to our Tribe and will go a long way to restore our limited land base while preserving the land for future generations.

To provide a brief background, the Leech Lake Band of Ojibwe is part of the Minnesota Chippewa Tribe, is comprised of over 9,500 Members, and is headquartered in North Central Minnesota. The Leech Lake Tribe holds the smallest percentage of its reservation of any of the state's tribes.

Of the 864,158 original acres, nearly 300,000 acres are surface area of the three big lakes in our region. Further, the Chippewa National Forest holds over seventy-five percent of the land within the boundaries of the reservation. This leaves less than 5 percent of land owned by the Leech Lake Band.

As you know, the legislation before you would transfer 11,760 acres of Chippewa National Forest land back to the Leech Lake Band of Ojibwe which was taken from owners of tribal allotments through a process called "Secretarial Transfers".

Starting in the year 1948, the Bureau of Indian Affairs incorrectly interpreted a Department of Interior executive order and believed that they had the authority to sell these individual tribal allotments without getting the consent of the rightful owners.

These sales ceased in 1955 following a memo that the Bureau of Indian Affairs received from the United States Field Solicitor that advised them that these sales were illegal.

Of the 17,000 acres of tribal lands that were taken through this process, the biggest share—11,760 acres—is located in Cass County, in and around the largest concentration of our tribal population as well as our Tribal Headquarters in Cass Lake.

The Leech Lake Band of Ojibwe has no immediate intention of changing the use of these lands. We would honor current agreements, and anticipate that these lands would be held until we develop a broader plan that will allow for a gradual subdivision of some of the tracts for economic and residential development. The land will be open to the public to hunt, fish, explore, hike, bike and enjoy!

We believe a significant tribal land base is the foundation of tribal sovereignty and self-determination. Federally recognized lands form the geographical limits of each tribe's jurisdiction, supports our residing tribal populations, is the basis of our tribal economy, and provides an irreplaceable forum for our cultural vitality, practices and traditions. Within the Leech Lake community the lack of land has a direct impact on our ability to access adequate housing. This has been proven to jeopardize the health and safety of our Tribal Members and a remains one of the biggest issues within Indian Country today.

For us, the passage for this legislation and securing of additional land is one of the critical components needed to continue our work to increase housing options and will positively impact Members of our tribe now and for generations to come.

Once again and on behalf of the Leech Lake Band of Ojibwe, Chi-Miigwetch for the invitation to testify today. We know that there are many important matters which come before this Committee and are honored that you would take the time to review the Leech Lake Band of Ojibwe Reservation Restoration Act.

As you have heard, this legislation would go a long way to restore the Leech Lake Band of Ojibwe's limited land base, while at the same time, honor current agreements and preserve the land for future generations.

Thank you Mr. Chairman and Mr. Vice Chairman for holding this hearing, I look forward to answering any questions you may have.

The CHAIRMAN. Thank you.

We will begin with questions.

The CHAIRMAN. Mr. Chairman, I will start with a question for you.

The bill, S. 2599, states that "a large portion of the Federal lands that are to be transferred to the Department of the Interior for benefit of the tribe is overlooked with utility easements, right-of-way for roads, and flowage and reservoir rights."

You mentioned the tribe already has a long range plan for economic and housing development on the land. My question is how will this land be developed for economic and residential opportunities while still recognizing the rights that exist on the land?

Mr. JACKSON. Chairman Hoenen, currently there aren't any developed buildings, housing or lodges on any of the land we are talking about today. These right-of-ways, utilities and easements are something that the tribe utilizes as well and they would be honored.

The CHAIRMAN. I think that is important to understand. For example, the land transfer we just worked out with the Lytton Rancheria, they worked very hard with all stakeholders and I think they really did an admirable job to make sure that all stakeholders were treated fairly and well.

The transfer was made for the benefit of the tribe but I think they were very careful in their planning and very inclusive.

Obviously there are various interests with these utilities, easements and rights-of-way for roads, flowage and reservoir rights as well as, of course, the tribal interests. It is important that you work with everyone as you make this transfer to get them onboard. I guess that is the point I am making.

Mr. JACKSON. I understand that. As I said, we have no intentions of changing any of the dynamics there with the hunting and fishing rights we have. We hunt side by side with non-Natives on tribal lands, State forestry lands and that will continue to happen.

The CHAIRMAN. As a matter of fact, I have hunted not on your lands but not too far away so I know it is good for deer hunting and other types of hunting as well, and fishing.

Vice Chairman Udall.

Senator UDALL. Thank you very much, Chairman Hoenen.

First, I would like to acknowledge two constituents of mine sitting in the crowd, Lacey Begay and John Cummings who are in Washington as part of the Native Leadership Program. I had the pleasure of meeting these two young advocates this morning. They are doing great work on behalf of Indian Country. I am pleased to see them here today. Welcome.

Ms. Weldon, more than 300 tribes manage over 18 million acres of forest land. These lands border nearly 4,000 miles of Forest Service-managed lands which are at a heightened threat to wildfires.

I know the Forest Service does excellent work to support fire mitigation and fire suppression activities but as you know very well, the Forest Service has faced an uphill battle when it comes to forestry work due to a dramatic increase in costly, more destructive and catastrophic wildfires.

In 2004, Congress passed the Tribal Forest Protection Act to be another tool in the fire mitigation toolbox. The TFPA allows tribes to have greater control over their lands by helping the Forest Service with its work on adjacent Forest Service lands.

TFPA is a great idea but I have heard mixed results. My question for you is does the Forest Service have sufficient personnel and capacity to work with tribes and assist in their TFPA endeavors?

Ms. WELDON. Thank you, Vice Chairman.

We are affirming with you that TFPA and the purposes behind it are really on track with the idea of sharing across landscapes and looking at ways to protect communities, lands and reduce the risk of wildfire.

We have a number of examples where we are working effectively with the Tribal Forest Protection Act. We find that we do extremely well when we work closely with the tribes as we are developing proposals together and ensuring we are optimizing the priority landscape we are working with in that.

As relates to our capacity, where we are making those commitments, we are able to follow through on those. As we become more efficient and effective in using this tool and also stewardship contracting to deliver that, we are seeing more of that occur.

That includes a couple of examples happening with the Leech Lake Band as well as some other areas in the west.

Senator UDALL. Could you use more people to carry out these responsibilities?

Ms. WELDON. Could we use more people?

Senator UDALL. Yes.

Ms. WELDON. I think that is a correct answer for a lot of work we are trying to do, to increase the amount of outcomes on our landscapes overall.

Senator UDALL. Thank you.

I have heard from some tribes in New Mexico about stewardship contracts. These contracts can be difficult and sometimes inflexible. Selecting a contract mechanism that fits best for both parties is very important, especially under a government-to-government relationship.

One option is what is known as 638 contracts, a process which has been around since 1975. You are familiar with that. I see you are nodding there. The process is not perfect but tribes know the process well.

The question really is do you think 638 contracting for forestry work under the Tribal Forest Protection Act is a viable option for tribes to protect their resources, considering that 638 contracting is a process that many tribes are comfortable and familiar with?

Ms. WELDON. Thank you very much.

As you know, the Forest Service and USDA do not have the ability to apply that. As we have talked with our colleagues and USDI, we are learning there are a lot of additional flexibilities.

The ability for the management of our stewardship contracts or contracts to be shared more fully with the tribes being able to host those and work through a lot of the administrative details does facilitate our ability to get work done.

I would see it as something that we would be very interested in exploring further.

Senator UDALL. I am glad you are willing to do that because tribes really understand that process well. I think it would further the relationship.

Chairman Jackson, as you know, climate change can have dramatic impacts on everything from water, forests to wildlife, all of which do not follow land management boundaries. Whether federally-managed lands or tribally-managed lands, land management agencies and departments are on the front lines on climate change resiliency efforts.

The lands tribes manage may often prove more resilient than Federal land because tribal lands are managed by the tribes who know the land the best. It is my understanding that you are work-

ing with the BIA on an integrated resource management plan to have better control over your natural resources.

Can you please describe your tribe's experience with forestry management on the lands subject to this bill and your land in general?

Mr. JACKSON. You are right. We have had climate change and we are beginning to take steps to morph this plan into an integrated resource management plan to be more inclusive with regard to wildlife, water quality, culturally-significant plants and invasive species in deterrence.

Our plan would focus on the ecological balance of the forests within the Leech Lake Reservation which will produce a more diverse forest and better reflect the pre-settlement forests that were.

Additionally, the forests will be raised in resilient climate change through diversity and retaining species on suitable sites. We have our forest staff that works in our headquarters office in Walker come out to the communities to have discussions with the elders.

They go out into the forests and have working relationships in the field with community elders about the plants, the water and what is happening in the forest. We have a really good working relationship with Cass County with our forest rangers, working side by side with our tribal forest department.

They are out in the field and the woods and are constantly having good, productive, ongoing dialogue. We are really happy about that.

We have a MOU with Cass County. As I said, we have a good working relationship with Cass County and the forestry. We feel well connected with the staff and look at the forest issues together.

Senator UDALL. [Presiding.] Chairman Jackson, I think the tribes, where I have seen them work on forestry issues, are very conscientious and diligent.

I was wondering if you have thoughts in terms of the question I asked of Ms. Weldon on 638. You obviously have familiarity with 638. Do you think that is something that could work for your tribe or other tribes in terms of forestry?

Mr. JACKSON. Thank you for that question.

I do not have all the information about the 638. I have been kind of on other issues just being on the council for two years. I can get back to you on that.

Senator UDALL. We will put that question in the record and you will have an opportunity to take a look at it.

Senator Cortez Masto.

Senator CORTEZ MASTO. I will yield to Senator Smith since it is her bill and I will ask questions after that.

Thank you.

Senator UDALL. Okay. Thank you.

Senator SMITH. Thank you, Vice Chairman Udall. Thank you, Senator Cortez Masto. I appreciate that.

I would like to start with Ms. Weldon. I want to thank you so much for being here today. I have been so happy to work with the Forest Service in the drafting of this bill. I very much appreciate the assistance you provided and the working relationship we have had.

I understand, as you have indicated, that there are still some issues and details we need to work out, particularly around permitting, rights-of-way on parcels and those kinds of issues.

For example, I know there is some question about the timber contracts and those issues. I appreciate, Chairman Jackson, you making clear your intention to respect those previous commitments. I appreciate that very much.

I also want to note that you brought up Cass County, Chairman Jackson, also a really important partner in this whole endeavor and the fact that the Leech Lake Band has a good relationship with Cass County which I think will very much help.

Let me say, Ms. Weldon, you and I had a chance to visit right before we began. I appreciate your comments that you look forward to working on this so we can wrap up any last remaining details.

I want to thank you for that and see if there is anything else you would like to add on that?

Ms. WELDON. No. Thank you very much.

We spent a lot of time visiting with the local leadership for the national forest there. There is good support for the intention behind the bill and really acknowledging the very unique landscaping relationship between the tribal lands and the national forest.

I think there are some things we need to work out and maybe some novel ways of looking at how to do that into the future.

Thank you.

Senator SMITH. I very much appreciate that. I look forward to continuing to work with you so we can get this figured out.

Chairman Jackson, I know there have been lots and lots of consultations. Could you tell us a little bit about the kinds of ways you have been working on this with the Forest Service and maybe also with Cass County as we have been hammering out the details of this bill?

Mr. JACKSON. We have been working with Cass County in a lot of meetings. We attend some of their city and council meetings. We talk about how important the land is, not only for housing needs and economic development but also hunting needs.

There is land within the reservation that is kind of being sold, is parceled off, and it is kind of right in the area where a lot of tribal and non-tribal members hunt. That is always a concern and our land base seems to continue to shrink with more posting of land.

Every time you are out hunting in different seasons, there are always new lands surfacing. That is a big concern. It kind of ties in a bit with the housing needs I alluded to earlier. We have two families living in one household, sometimes three families residing in one household. It is also pertinent for housing development to have this land available.

Senator SMITH. Your work on this I think is really important. Access to affordable housing and the challenges of homelessness are issues throughout the country and throughout Minnesota. You are really dealing with it firsthand at Leech Lake.

Thank you for your work on that. It is part of why this is so important, isn't that right?

Mr. JACKSON. That is correct, Senator.

Senator SMITH. I want to wrap up by saying I so appreciate you being here. I really look forward to working with both of you to get this figured out. It will be very important. I know how important it is for Leech Lake.

I am glad to be finding a good solution to this, along with my colleague, Senator Klobuchar.

Thank you.

Senator UDALL. Thank you.

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you.

Chairman Jackson, welcome and welcome to your wife. I am glad you made it safely. Ms. Weldon, welcome as well.

I am supportive of the legislation and look forward to seeing what comes from the fruit of you getting together. It sounds like you are not far off. There is the ability to work together to transfer the land and really have some good legislation. I appreciate that and the comments you have had today.

While I have you here, Ms. Weldon, I would like to talk about an issue happening in Nevada. The Forest Service is currently analyzing the impacts of making available for lease approximately 54,000 acres of National Forest lands in the Ruby Mountains in Elko County, making it available to oil and gas leasing.

Such an oil and gas program would be managed by the BLM. As you know, the Forest Service is conducting this analysis because the Forest Service and the BLM received a leasing inquiry from a Wyoming-based developer.

Due to the high public interest, I am told that the Forest Service extended the comment period through April 23, 2018. In fact, I submitted my own letter.

You should know that this area of Nevada is particularly known as the Swiss Alps of Nevada. You can imagine how beloved and beautiful it is for everyone who lives there in northern Nevada. I understand there has been an overwhelming majority of people who have submitted comments that are opposed to the drilling.

My question to you is specifically, do you know or can you give me a date of when the Forest Service will be releasing its final environmental assessment and decision of record for the potential use of Ruby Mountain or what is going to happen there?

Ms. WELDON. Thank you, Senator.

We do not have an exact date but we are in the timeframe where the final review is happening here in the national office. We expect that to happen very soon. We would like to check on the status of that final review process happening here in headquarters and be able to work with your staff to let you know exactly when.

Senator CORTEZ MASTO. Do you know if a determination has been made one way or the other by the Forest Service and it has just not been released?

Ms. WELDON. I do not know but I will check into it and get back to you.

Senator CORTEZ MASTO. I look forward to talking with you further about that. Thank you.

Ms. WELDON. Thank you.

Senator CORTEZ MASTO. Thank you very much.

Mr. Chair, Ranking Member, I have no further questions.

Senator UDALL. Senator Smith, how about you, anymore questions?

Senator SMITH. No.

Senator UDALL. Thank you.

Let me also recognize today that we apparently have the young people who came in the red shirts of the Bank of America's Youth Leadership Program. I understand this is a program to increase civic education. Senator Cortez Masto's staff says they are the best and brightest students from many States so I was trying to find out a bit about them.

In terms of the civics, this is a hearing on a piece of legislation introduced by Senator Smith to give back land that was in the possession of the Forest Service that got there in an improper way. The name of the tribe is the Leech Lake Band of Ojibwe in Minnesota.

Whenever we do anything that impacts the Forest Service and a tribe, we have a hearing. That is why we have a Forest Service witness and the chairman of the tribe here. We have had a full hearing.

The next thing we do is mark up the bill at a later date and move it along in the legislative process.

Thank you for being here and learning a little bit about the sausage-making as they call it.

If there are no more questions for today, members may also submit follow-up, written questions for the record. The hearing record will be open for two weeks.

I want to thank the witnesses for their time and testimony today.

This hearing is adjourned.

[Whereupon, at 3:20 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF THE U.S. DEPARTMENT OF THE INTERIOR

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for the opportunity to present the Department of the Interior's (Department) views on S. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act, which directs the Secretary of Agriculture to transfer certain lands in the Chippewa National Forest to the Secretary of the Interior to be held in trust for the Leech Lake Band of Ojibwe in Minnesota.

Administering trust lands is an important responsibility that the United States undertakes on behalf of Indian tribes. The Congress, through its plenary authority over Indian Affairs, can direct the Department to accept and administer lands to be held in trust as it does in S. 2599. The Department thus does not take issue with Congress's decision to pursue legislative proposals, such as S. 2599, for this purpose.

S. 2599 directs the Secretary of Agriculture to transfer administrative jurisdiction to the Secretary of the Interior of approximately 11,760 acres of federal land to be placed in trust for the benefit of the Leech Lake Band of Ojibwe. Under S. 2599, the Secretary of the Interior's land into trust action shall be in accordance with the regulations of the Department applicable to trust land acquisitions for Indian tribes that are mandated by federal legislation.

S. 2599 also includes several prohibitions, including that any federal law relating to the export of unprocessed logs harvested from federal lands shall apply to any such logs harvested from the lands defined in S. 2599; that the federal land defined in S. 2599 shall not be eligible or used for any gaming activity carried out under the Indian Gaming Regulatory Act; and that any commercial forestry activity carried out on the lands shall be managed in accordance with applicable federal law.

This concludes my statement and I would be happy to answer questions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO HON. FARON JACKSON, SR.

Dear Chairman Hoeven and Vice Chairman Udall:

I am writing on behalf of our Tribe to thank you for including S. 2599, the Leech Lake Band of Ojibwe Reservation Restoration Act in the Senate Committee of Indian Affairs legislative hearing on July 11, 2018. We appreciate the opportunity to testify before the Committee and share for the record why this land transfer is so critical to our tribe. We will continue to work closely with all stakeholders and would like to affirm our commitment to work with all parties as the legislative process proceeds. Thank you for your work to move forward this important legislation and please do not hesitate to contact me should you have any additional questions.

As you have heard, S. 2599 would transfer 11,760 acres of land that was taken from owners of tribal allotments and incorporated into the Chippewa National Forest back to the Leech Lake Band of Ojibwe (LLBO). The Chippewa National Forest acquired the land illegally through a process called Secretarial Transfers. I testified that the Bureau of Indian Affairs incorrectly interpreted a Department of Interior executive order and believed that they had the authority to sell these individual tribal allotments without getting the consent of the rightful owners. These sales ceased in 1955 following a memo that the Bureau of Indian Affairs received from the United States Field Solicitor that advised them that these sales were illegal.

I want to reiterate that our Tribe stands ready to work with stakeholders and Congress as this process proceeds. Further, we have a very good working relationship with Cass County, Minnesota and the Chippewa National Forest where the lands in question are located. Our tribe will continue to work with all stakeholders to make sure that the public will have access to roads and utilities on the land, as well as access to recreation opportunities in the area. The land will be open to native and non-native members of the public to hunt, fish, explore, hike, bike and enjoy just as they are today. As I testified, our tribe will continue to work with the Com-

mittee and the U.S. Forest Service to solve any remaining technical issues. Our tribe has no immediate intention of changing the use of these lands and would honor all current agreements and timber contracts.

I would also like to respond to Senator Udall's question regarding whether "638" contracting for forestry work under the Tribal Forest Protection Act (TFPA) as a viable option for tribes to protect their resources. As you know, the USDA does not yet have the ability to apply "638" contracting, however, our tribe generally supports expanded "638" authority when there is the capacity to do so as "638" would allow each tribe to determine how best to spend funds and administrate programs. "638" contracting would also allow for greater tribal participation in TFPA projects.

In addition, with the onset of climate change, the Leech Lake Reservation has a Forest Management Plan (FMP) that has been in effect since 2002. Our tribe is beginning steps to morph this plan into an Integrated Resource Management Plan (IRMP). An IRMP will be much more inclusive with regard to wildlife, water quality, culturally significant plants, invasive species deterrence, etc. This plan will focus on ecological balancing of the forests within the Leech Lake Reservation; calling for some distancing from monoculture and some early successional species. This will result in a more diverse forest that will better reflect the pre-settlement forests that were. Additionally, these forests will be best poised to resist climate change through their diversity and retaining species on suitable sites.

Again, acquiring this land is critical for our tribe as a significant tribal land base is the foundation of tribal sovereignty and self-determination. Federally recognized lands form the geographical limits of each tribe's jurisdiction, supports our residing tribal populations, is the basis of our tribal economy, and provides an irreplaceable forum for our cultural vitality, our religious beliefs, practices and traditions.

Once again, and on behalf of the Leech Lake Band of Ojibwe, I would like to extend my sincerest appreciation for holding a legislative hearing on this bill. It will go a very long way to restore our limited land base. Thank you for your consideration of, and work to, advance this legislation. Please do not hesitate to contact me should you have any additional questions.

