

**Testimony of Governor Reggie Wassana  
Cheyenne and Arapaho Tribes  
House Appropriations Committee –  
Subcommittee on Interior, Environment, and Related Agencies  
Land, Trust, and Natural Resource Management**

Good Morning Chairman McCollum and distinguished members of the Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies. I am Reggie Wassana, Governor of the Cheyenne and Arapaho Tribes, one of 39 Indian tribes in the State of Oklahoma. I appreciate the opportunity to comment on Land, Trust, and Natural Resource Management.

In general, it is my feeling that the land-into-trust program still does not move expeditiously in the conversion of land held in other-than-trust status by Tribes or individual Indians into trust status. Early in Mr. Trump's administration, there was backlash from tribal leaders all across the country because of his administration's proposed rule changes for the land-into-trust process. Many of the proposed changes would double the burden on the tribes in an already burdensome process.

The purpose for the proposed changes was supposedly to "streamline" the process for land-into-trust but the added hurdles to this process were obvious which is why so many of my fellow tribal leaders objected to the changes. Although many of these proposed changes were never implemented, the BIA nonetheless did reinstate a 30-day waiting period for land-into-trust applications, reversing an Obama-era policy without consulting tribes about the change.

Laws enacted a century ago saw the loss of two-thirds of land on Native American reservations, according to the NCAI – some 90 million acres, including the best parcels. The proposed rule changes made by Mr. Trump's administration in 2017 went against the intent of the Indian Reorganization Act, the law passed by Congress in 1934 to reverse the disastrous effects of the allotment era that resulted in tribes all across the country losing 90 million acres of their tribal territories. Since that time, for decades, the Department of Interior has put land into trust without hesitation and has slowly restored 9 million acres of land within boundaries of existing reservations back into trust status. However, with the advent of Indian gaming through the Indian Gaming Regulatory Act (IGRA) in 1988, this long-established practice suddenly became controversial and tribes have struggled to get land placed into trust ever since.

It is now 2020 and while I am happy for all of the tribes across the country who have been successful in navigating the land-into-trust process and getting part of their original ancestral homelands restored, I am here today because my Tribe has been far less fortunate. Under the Medicine Lodge Treaty of 1867, the Cheyenne and Arapaho Tribes were assigned a total of 4,300,000 acres of land. Today, we only own about 15,000 acres, and of this amount, less than 11,000 acres are 100 percent owned by the Tribes. This greatly limits our opportunities for economic development and self-sufficiency.

The Cheyenne and Arapaho Tribes are under the BIA Southern Plains Region, more specifically the Concho Agency and it is important to note that we are the only tribe in the Concho Agency's jurisdiction. Research going back over 40 years has shown that the Cheyenne and Arapaho Tribes have never successfully placed one single acre of land into trust status.

While the Cheyenne and Arapaho Tribes now works cooperatively with the BIA Concho Agency and the Southern Plains Regional Office, the trust application process has proven to be burdensome due to unnecessary and unrealistic demands in the Land Description review portion of the application. Cheyenne and Arapaho trust applications are frequently and significantly delayed and then returned because of standards applied by the Bureau of Land Management (BILS) surveyor and the rules for land-into-trust are not enforced uniformly.

### **Federal Standards**

I understand that the DOI has attempted several times over the decades to streamline the land-into-trust process and to create a standard for the process. However, in my first two years as Governor of the Cheyenne and Arapaho Tribes, my experience has been that the DOI does not handle all land-into-trust applications in a uniform manner. Regional variations create differing experiences between Tribes, which may result in greatly expedited or delayed applications.

It seems that the current process requires the DOI to give a lot of weight to the concerns of state and local jurisdictions. I would like to remind you that the DOI has a primary trust responsibility to Indian Tribes, not to state and local jurisdictions. Recognition of non-tribal concerns can be achieved through the existing written comment period for impacts on regulatory jurisdiction, real property taxes, and special assessment.

### **The Cheyenne and Arapaho Experience**

Over the past several years, the Cheyenne and Arapaho Tribes have purchased and/or acquired several properties in fee status that are within our original reservation boundaries. Specifically, the Tribes own prime tracts of land along Interstate 40 in El Reno, Geary, Clinton and Elk City. Additionally, we own two different tracts in the northwestern part of our original reservation in Woodward, Oklahoma as well as other properties in fee status throughout our original reservation boundaries. Although our tribe has been unsuccessful at placing any land into trust, the DOI recently allowed the Shawnee Tribe of Oklahoma to place a 103 acre parcel of off-reservation land into trust on land that is contiguous to our original reservation boundaries and the land is 400 miles away from their actual homeland.

### **Elk City Property**

The Tribes acquired our Elk City property in two separate transactions in June 2000 from the Oklahoma Department of Transportation and our former gaming management company. The Tribes have submitted several applications to the Concho Agency over the past 20 years to have this 49-acre parcel of land placed into trust but have never been successful. The reasons stated by the BIA vary from issues they have with the land's legal description, proposed use of the land, our tribal name and tax concerns. Over this period of time, the Tribes have spent thousands of dollars in consulting fees, attorneys' fees, title commitments, surveyor fees, and environmental assessment costs. We were recently informed by the Office of the Solicitor that the issue concerning taxes on one of our properties should have never been an issue. As it turns out, the Concho Agency and our Regional Office were interpreting a requirement about payment of taxes incorrectly, but this incorrect assessment has caused all of our trust applications to be returned over the years until we "remedied" the issue.

## **El Reno Property**

The Tribes acquired our El Reno property in July 2008 and like the Elk City property, have attempted to get the 91-acre parcel of land placed into trust. There have also been several trust applications submitted to the Concho Agency over the past 12 years to have this parcel of land placed into trust but to date, the Tribes have not been successful. The issues are typically the same; the land's legal description, proposed use of the land, and our tribal name. Because the BLM surveyor stated that the ALTA survey completed by the original surveyor of this property was not satisfactory, we acquired the services of a CFeds surveyor, and it was discovered that the legal description used for the property for more than 50 years was incorrect. Although this seems like it would be a simple fix, it has required the coordination and ultimately the approval of the city of El Reno because the city owns a 3 acre less and except parcel within our property so correcting the legal description also affects their property. Conversations and meetings with the city of El Reno on correcting this issue have been friendly but it ultimately led to a request and bargaining chip from the city for a wider easement at the tribe's expense before they'll agree to correcting the legal description. This issue has subsequently delayed the Tribes in resubmitting their trust application by almost a year and has added projected additional expenses of nearly \$50,000 on top of the money that has already been spent over the past 12 years on attempts to get this property placed into trust.

## **Geary Properties**

The Tribes owns two parcels of property in the town of Geary. One of these is prime property because it is right off of Interstate 40 and the other is used as a tribal community hall. The first parcel is known as our Rodeo Joe's property and it is a 6-acre parcel of land that the Tribes acquired in March 2006. Like our other properties, the Tribes have made several attempts to get this parcel of property placed into trust and have been unsuccessful. One of the reasons the BIA has returned the application has been due to unresolved "tax issues". However, as we recently discovered from the Office of the Solicitor, these tax issues should have never been considered tax issues in the first place. In this case, the Concho Agency insisted that we had to have the land removed from tax exempt status and pay back taxes. The Concho Agency didn't apparently did not understand that land in fee status can also be tax exempt which was the case with this parcel of land. To our tribes detriment, the ill advice of the Concho Agency was followed and we had the land removed from tax exempt status and ultimately had to pay back several thousands of dollars in taxes going back to 2006. Subsequently, during a BIA informational meeting held on January 7, 2020 in which the Office of the Solicitor was present, we discovered that we did not have to do this because as long as the county showed that we didn't owe back taxes, that was sufficient regardless of whether it was in tax exempt status or not. However, for this parcel of land, we cannot undo what has been done. Again, the inconsistency that the DOI does not handle all land-into-trust applications in a uniform manner is burdensome and, in many cases, is to the economic detriment to the tribes.

Our other Geary property, a 1-acre lot block piece of property, should have been much easier to get placed into trust because a survey is not required for lot block property. Nonetheless, it took us over a year before we finally made any significant progress with the trust application for this parcel of land. After waiting for several months, we finally received a

Preliminary Title Opinion (PTO) from the Office of Solicitor and was given the go ahead to conduct a Phase I Environmental Assessment (EA). However, because the report stated that there “might be” or the “possibility” of contamination due to a gas station that was .4 miles away, we have been advised by the Concho Agency and Regional office that we must now get a Phase 2 EA completed to clarify that there is not any contamination underground. The total cost of these two environmental assessments is almost \$20,000 and is costing the Tribes money that could be used for services to our tribal members.

### **Conclusion**

The Trump administration has gone through great lengths for deregulation efforts to roll back red tape that has burdened Americans and stifled economic growth. Today, I am asking that this same effort of deregulation also be geared towards the land-into-trust process. By making the land-into-trust process burdensome for Indian tribes, it is stifling our economic growth. Many of our tribal nations are in rural parts of the country. Easing the burden on tribes to place land into trust will provide an economic boom for not only Indian tribes but also for the rural communities that are near and within the tribal reservation boundaries.