

**STATEMENT  
OF  
JERRY GIDNER  
DIRECTOR  
BUREAU OF INDIAN AFFAIRS  
U.S. DEPARTMENT OF THE INTERIOR  
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE  
ON H.R. 2523**

**OCTOBER 21, 2009**

Good morning, Mr. Chairman, Mr. Ranking Member, and Members of the Committee. My name is Jerry Gidner and I am the Director for the Bureau of Indian Affairs (BIA) at the U.S. Department of the Interior (Department). I am here today to provide the Department's testimony on H.R. 2523, a bill to amend the Act titled 'An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases', approved August 9, 1955, also known as the "Helping Expedite and Advance Responsible Tribal Homeownership Act", or the "HEARTH Act".

The Administration and this Department support tribal self-determination and self-government. We want to work closely with tribes, this Committee and Congress to address the lease approval processes that hinder not just housing opportunities in Indian Country, but also economic and other development opportunities. Therefore, the Department shares the Committee's desire to address leasing issues in Indian Country and to improve leasing authority in Indian Country through H.R. 2523. The Department could support this bill if amended to address our concerns outlined in this testimony. We look forward to working with the Committee staff to address these concerns.

As we understand it, the purpose of the HEARTH Act is to amend certain sections of 25 U.S.C. §415, the Indian Long-Term Leasing Act to allow Indian tribes, at their discretion, to approve and enter into certain leases without prior express approval from the Secretary of the Interior. 25 U.S.C. §415(e), specifically addresses the Navajo Nation's current ability to lease any restricted Navajo Nation lands, with a few exceptions, for public, religious, educational, recreational, residential, or business purposes without the requirement of the Secretary of the Interior's approval of such leases. This authority does contain certain provisos: 1) the Navajo Nation leases must be executed under the Nation's regulations approved by the Secretary of the Interior; 2) the lease cannot exceed 25 years for a business or agricultural lease, which can be renewed twice but each renewed term cannot exceed 25 years; and 3) the lease cannot exceed 75 years for public, religious, educational, recreational, or residential purposes, if such a term is within the Navajo Nation's regulations.

The HEARTH ACT would provide the same authorities to any federally recognized Indian Tribes, at that Indian tribe's discretion, to lease its lands, with the same restrictions in 25 U.S.C. §415(e), without the requirement of the Secretary of the Interior's approval of such leases, so long as such leases are executed under the Indian tribe's regulations that have been approved by the Secretary of the Interior. Given this broad increase in authorities for Indian tribes, which is

consistent with this Administration's policy of supporting tribal self-determination, the Department has identified several areas in the legislation that will impact the Department.

The Department would like to clarify the Secretary's trust responsibilities for enforcing tribally-approved leases. The Department would also like to study further whether the HEARTH Act should include language that clarifies the Federal government's liability in situations where losses may occur in leases approved by the tribe. In addition, the Department will need to evaluate the impacts on operations, the Secretary's process for approving new Department regulations, and a Secretarial process for approving tribal regulations. For example, longer timelines will be necessary for reviewing and approving tribal regulations.

The HEARTH Act would also require the BIA to prepare and submit a report to Congress regarding the history and experience of Indian tribes that have chosen to assume responsibility for operating certain Indian Land Title and Records Office (LTRO) functions from the BIA. Such review would include consultation with the Department of Housing and Urban Development Office of Native American Programs and those Indian tribes managing LTRO functions. The Department agrees with the factors to be considered in the review.

We look forward to working through our concerns with the Committee so that we can wholeheartedly support this bill. This concludes my prepared statement. I will be happy to answer any questions the Committee may have.