

TESTIMONY TO THE HOUSE COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES

Presented by: Ervin Carlson, President  
Inter Tribal Buffalo Council  
Fiscal Year 2012

May 3, 2011

I. INTRODUCTION AND BACKGROUND

My name is Ervin Carlson; I am a member of the Blackfeet Nation in Montana and the President of the Inter Tribal Buffalo Council (ITBC), formerly the Inter Tribal Bison Cooperative. Please accept my sincere appreciation for this opportunity to submit written testimony to the honorable members of the House Committee on Appropriations; Subcommittee on Interior, Environment and Related Agencies. ITBC has recently become a federally chartered Indian Organization under Section 17 of the IRA and is headquartered in Rapid City, South Dakota. ITBC is comprised of fifty-six (56) federally recognized Indian Tribes in nineteen (19) states.

On behalf of the member Tribes of ITBC I would like to address the following issues: 1) request an appropriation of \$3,000,000.00 for Fiscal Year 2012, from the Department of Interior, Bureau of Indian Affairs, Operation of Indian Programs, to continue our restoration effort, to continue to provide highly qualified technical assistance, implement our marketing initiative and to continue our health initiative which utilizes buffalo to treat and prevent diet related diseases among Native Americans; 2) explain to the Committee the unmet needs of the members of ITBC; and 3) update the Committee on the present initiatives of ITBC.

The American buffalo, also known as bison, has always held great meaning for American Indian people. The buffalo provided the Tribes with food, shelter, clothing and essential tools. In the 1800's, the white-man recognized the reliance Indian Tribes had on the buffalo. Thus began the systematic destruction of the buffalo to try to subjugate the Tribal nations. The slaughter of over 60 million buffalo left only a few hundred buffalo remaining.

Indian people developed a strong spiritual and cultural relationship with the buffalo that has not diminished with the passage of time. To Indian people, buffalo represent their spirit and remind them of how their lives were once lived, free and in harmony with nature. It is this connection that caused multiple Tribes to come together to organize ITBC with the mission of preserving the sacred relationship between Indian people and the buffalo through restoring buffalo to Tribal lands. ITBC envisioned the restoration of buffalo on Tribal lands would foster sustainable economic development that would be compatible with each of the Tribal cultures. The land bases of most Tribal Reservations is unsuitable for farming or raising livestock but this marginal land is ideal for raising buffalo who have lived in this ecosystem for thousands of years. ITBC received funds in 1992 and began their restoration efforts.

Federal appropriations have allowed ITBC to successfully restore buffalo to over fifty Reservations on over 1,000,000 acres of trust land, thereby preserving the sacred relationship between Indian people and the buffalo. The respect that Indian Tribes have maintained for the buffalo has fostered a very serious, high level of commitment by ITBC member Tribes for successful buffalo herd development. With healthy, viable buffalo herds, opportunities now exist for Tribes to utilize buffalo for prevention and treatment of the diet related diseases that gravely impact Native American populations such as diabetes, obesity, cardio-vascular disease and others. Viable buffalo herds also offer Tribes the opportunity to develop sustainable economic development projects surrounding the buffalo. The primary focus of ITBC is to help develop Tribal herds that are able to provide a wholesome healthy meat product to the Tribal members while remaining economically viable in the Reservation landscape. This will allow the Tribes to utilize a culturally relevant resource in a manner that is compatible with their spiritual and cultural beliefs and patterns as a means to achieve self-sufficiency.

## II. FUNDING REQUEST

The Inter Tribal Buffalo Council respectfully requests an appropriation for FY 2012 in the amount of \$3,000,000.00. This amount would restore ITBC funding close to the FY 2006 appropriation level and will greatly enhance our ability to successfully accomplish Tribal goals and objectives. This request will help balance our continuing growth in membership with our funding level. The \$3,000,000.00 funding level would restore vital funding that was cut in FY 2007, by the previous administration, and has not been restored. Our requested funding level of \$3,000,000.00 will allow our member Tribes to continue their successful restoration efforts, to restore our marketing initiative and to restore the health initiative for the prevention and treatment of diet related diseases among Native American populations, while simultaneously building economic sustainability for the Tribal projects.

## III. FUNDING SHORTFALL & UNMET NEED

In FY 2006, ITBC and its member Tribes were funded through appropriations at \$4,150,000.00. The President's budget in FY 2007 and FY 2008 eliminated funding for ITBC. A Congressional earmark in FY 2007 and 2008 provided \$1,000,000 from the BIA for Herd Development Grants to Tribes-only. In FY 2009 ITBC received \$1,000,000.00 through a Congressional earmark appropriation in the DOI, BIA budget and \$421,000.00 for ITBC Administration from BIA FY 2008 carryover funds. In FY 2010 and 11 ITBC was in the BIA budget at the level of \$1.4 million.

Reductions in funding from FY 06 levels critically impacted ITBC's successful Marketing Program and Health Initiative to address diet related health problems epidemic on most Reservations in a manner that would provide economic stability to the Tribal programs.

Without the restoration of funding close to the FY 2006 level, new member Tribes will not receive adequate funding to begin buffalo restoration efforts. Tribes that have successfully restored buffalo to Tribal lands will not receive adequate technical assistance and resource development funds to ensure the sustainability of existing herds.

Furthermore, the investment made by Congress in FY 2006 towards ITBC's health care initiative has been cut to the point of almost being non-existent. This was designed to utilize buffalo for prevention and treatment of diet related diseases among Native American populations.

ITBC is structured as a member cooperative and 100% of the appropriated funds are expended on the development and support of Tribal buffalo herds and buffalo product business ventures. ITBC funding is distributed to ITBC member Tribes via a Herd Development Grant program developed by the consensus of the members. ITBC surveys member Tribes annually to determine unmet project needs and currently the total unmet needs for ITBC member Tribe's projects is \$10,000,000.00. The Tribal Bison Project Proposal summaries that detail the ITBC member Tribes projects and financial needs are on file with ITBC and available for your review.

#### IV. ITBC GOALS & INITIATIVES

The goal of ITBC is restoration of buffalo to Indian lands for Tribes to utilize in their day to day lives in a manner that promotes sustainable economic development. ITBC's ultimate goal is for Tribal buffalo herds to achieve sustainability and become a daily part of Tribal life through an increased presence in the diets of Tribal members.

##### Economic Development

In 1991, seven Indian Tribes had small buffalo herds numbering less than 1,600 animals. The buffalo provided little or no economic benefit to the Tribal owners. ITBC has proven extremely successful at buffalo restoration in its 19 years of existence. Today, with the support and technical assistance of ITBC and its fellow member Tribes, 57 Indian Tribes are engaged in raising buffalo or developing plans to raise buffalo and incorporate them into their daily lives. ITBC and the member Tribes have restored approximately 15,000 buffalo back to Tribal lands for use by the Tribes and their members.

Many of these Tribal buffalo programs have developed herds large enough to justify plans for marketing products as a step towards self sufficiency. Because of the depressed economies on the Reservations, jobs are scarce. Buffalo restoration efforts on the Reservations have created hundreds of direct and indirect jobs relating to buffalo management and production. As a result, a significant amount of revenue derived from buffalo products circulates through Indian Reservation economies.

However, Tribes must have the resources to build solid foundations for this new industry to become fully self sufficient and maintain sustainable buffalo herds. ITBC provides critical technical assistance to member Tribes that have developed sustainable management and infrastructure development plans. Additionally, ITBC provides training curriculum for the newly created jobs and marketing plans as Tribal herds reach marketing capabilities. ITBC has commenced implementation of a marketing initiative to provide member Tribes with viable marketing options for utilization of buffalo as economic development efforts. This marketing initiative is in an infancy stage and renewed funding is critical to achieve success.

### Tribal Buffalo Marketing Initiative

ITBC member Tribes face a multitude of obstacles when trying to get their buffalo to market. The remoteness of the Reservations means having to transport buffalo long distances to processing plants and this results in higher operating costs. The quality of meat is also negatively impacted by introducing an increased amount of stress on the buffalo. Further compounding the problem is the reluctance of some processing plants to process range fed buffalo and the requirements of some buyers that animals be corn finished in a feedlot situation. Some buyers also require USDA certification which means USDA inspected processing plants must be used which increases transport time. ITBC believes this lack of a constant supply chain that is cost effective is what is limiting the economic development of Tribal buffalo herds.

ITBC has assisted the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community in northern Montana with the development of a meat packing facility acquired by the Tribe in Malta, Montana. They have also begun to operate a smoke house in addition to the packing plant. ITBC has assisted the Cheyenne River Sioux Tribe in South Dakota with operation of their meat packing facility. ITBC has provided assistance to the Ponca Tribe of Nebraska for a tannery that the Tribe has started to produce brain tanned hides. ITBC is currently providing buffalo for the USDA AMS solicitation for ground bison for inclusion in the Food Distribution Program for Indian Reservations (FDPIR). ITBC believes the creation of locally driven, regional marketing plans will help to overcome the remoteness of the Reservations. Tribally owned processing plants would decrease the transportation time and increased cold storage capacity would also be very beneficial to ensuring a consistent supply of product for marketing ventures. ITBC will provide technical assistance in the areas of meat processing, cold storage facility development, processing plant enhancement, development of distribution and supply systems for buffalo meat and by-products and development of a cooperative brand name with standards and labeling guarantees for Native American produced buffalo.

### Preventive Health Care Initiative

ITBC is committed to providing buffalo meat to Indian Reservation families both as an economic development effort for Native American producers and, more critically, as a healthy food to reintroduce into the diets of Native American populations. Current research indicates that the diet of most Indian Reservation families includes large amounts of high cholesterol, processed meats that contribute to diabetes, obesity, cardiovascular disease and other diet related illnesses.

ITBC member Tribes has just commenced preventive health care initiatives with FY 2006 funding that provided easy access to buffalo meat on Indian Reservations and educated Indian families on the health benefits of range fed buffalo meat. The decrease in funding led to the elimination of the majority of the program with only the educational program still in existence. A restoration of the funds will allow the program to operate at the FY 2006 level.

Generally, buffalo meat is not sold in small quantities at the Reservation grocery and convenience stores which leaves Indian families with few alternatives to the high fat,

high cholesterol, processed meats stocked in Reservation stores. Buffalo meat if available is usually priced out of the affordable price range of the Tribal families. ITBC seeks to remedy this concern by providing buffalo meat in family sized quantities to Reservation markets and interact with the federal food programs. ITBC will work with federal food programs to make buffalo meat available through the local school systems and local community health networks working on addressing diabetes and other health issues.

## V. CONCLUSION

In 2012 ITBC will have been in existence for 20 years assisting its member Tribes to restore buffalo to their native lands for cultural purposes and working towards economic development for herd sustainability. ITBC will continue to provide technical assistance and funding to its member Tribes to facilitate the development of sustainable buffalo herds.

ITBC and its member Tribes have created a new Reservation industry, Tribal buffalo production, resulting in new money for Reservation economies. In addition, ITBC continues to support methods to market buffalo meat by providing easy access to meat on the Reservations and education efforts about the health benefits buffalo meat can bring to the Native diet. The ultimate goal is to restore the Tribal herds to a size large enough to support the local health needs of the Tribal members and also generate revenue through a cooperative marketing effort to achieve economic self sufficiency.

ITBC and its member Tribes are appreciative of past and current support from the Congress and the Administration. I urge the Committee to consider restoring ITBC funding to the level of \$3,000,000.00, which will allow ITBC to continue the restoration efforts and restore the Marketing and Health Initiative program started in FY 2006.

I would like to thank this Committee for the opportunity to present testimony and the members of ITBC invite the honorable members of the Committee to visit our Tribal buffalo projects and experience first hand their successes.

Questions and/or comments regarding any of the issues presented within this testimony may be directed to Mr. Ervin Carlson, President, or to Mr. James Stone, Executive Director, at (605) 394-9730.

**Testimony of Dave Archambault, II, Tribal Councilman  
Standing Rock Sioux Tribe  
House Appropriations Subcommittee  
On Interior and Related Agencies  
May 3, 2011**

On behalf of the Standing Rock Sioux Tribe, I am pleased to submit testimony concerning the President's FY 2012 budget for the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS). I want to express my appreciation to this Subcommittee for its strong support of Indian tribes. I would like to focus my remarks on education, public safety, health care, and infrastructure.

The Standing Rock Sioux Tribe is situated in North and South Dakota. The Reservation comprises 2.3 million acres, including 1.4 million acres of trust land owned by the Tribe or Tribal members. About 10,000 Tribal members and non-members reside on the Reservation in eight communities and in smaller towns. The Tribe's primary industry is cattle ranching and farming. We are remote, rural Indian reservation.

As Congress addresses the needs of the Indian country in light of the Budget deficit, I would urge you to consider three fundamental questions. First, what is the impact of funding Indian programs on jobs? While Indian tribes like Standing Rock are often among the largest employers in their areas, unemployment in Indian country remains at levels that are unimaginable elsewhere. Federal investments in education, public safety, and infrastructure in Indian country are crucial to providing jobs in these chronically high unemployment areas.

Second, what kind of country are we? The federal government has a special trust obligation to Indian tribes, arising from the Constitution, treaties and other documents. Much has been promised to Indian tribes in return for the loss of our lands. Are we a country that keeps its promises? Maintaining needed funding for programs aiding Indian country is one way to demonstrate the integrity of the United States in honoring its commitments.

Third, is it fair to limit the debate on the Budget to only discretionary spending? Certainly not. The only way to fairly address the Budget deficit is to put everything on the table. Social security, Medicare, tax reform and other key issues need to be included. It is simply not right to undermine necessary programs for Indian country, while the major reasons for the Budget deficit remain unaddressed. With these questions in mind, we turn to Standing Rock's specific recommendations.

In the Nineteenth Century, the Sioux Nation ceded millions of acres of land to the United States. But as recently as the 1950's, the United States Army Corps of Engineers flooded more than 56,000 acres of prime Tribal farmland on the Standing Rock Sioux Reservation to create the Oahe Dam to increase navigation along the lower Missouri River and to provide cheap hydro-electric power to the north-central United States. Tens of millions of Americans benefit from the Oahe Dam, but it brought great hardship to our Tribe. These hardships continue to this day.

The Oahe Dam devastated our Tribe. It displaced more than 25% of our reservation's population. We lost our best farmland and are still working to reclaim irrigable lands on our reservation. The creation of Lake Oahe further isolated our reservation. It established over a 100 mile transportation barrier from Bismarck, North Dakota to Mobridge, South Dakota, where the first

bridge crossing over the Missouri River south of Bismarck is located. Our rural location and lack of infrastructure (roads, safe drinking water, sewers, and electricity) contribute to the economic challenges our Tribe faces. But working in partnership with the United States and our neighbors, we can turn challenges into opportunities for economic growth and job creation.

The Tribe is working steadily to expand opportunities for economic development to provide jobs for our members and improve the standard of living on our Reservation. We operate the Standing Rock Farms, a Parts-on-Demand operation, two modest Tribal casinos, and a sand and gravel operation which helps us supplement services and programs for our more than 14,000 enrolled members. A few retailers also operate businesses on our Reservation. Despite the measures we are taking at the local level to improve living conditions on our reservation, we have persistent unemployment above 50%, and a high dropout rate among our high school students. Over 40% of Indian families on our reservation live in poverty. Yet, the Administration has proposed cutting discretionary spending for the BIA by \$118.9 million or 4.5% over the FY 2010 enacted level.

**EDUCATION** – Native Americans are poorly represented in colleges across the country. Investment in Indian education – at every level - is critical to the future success of our children.

**Scholarships and Adult Education** (+\$32.0 mil.) – I recommend that Congress double the funding for the BIA Scholarship and Adult Education Program by \$32 million. Our Tribe has provided \$3 million in Tribal funds over three years to support a scholarship program to provide over 300 students with grants of between \$3,000-\$3,500/semester which allow them to pursue degrees from accredited colleges, universities and vocational schools. BIA financed scholarships total about \$500,000 per year. This meets 25% of our need. The Adult Education component enables adults to obtain their GED or the required skills needed to transition to a community college or job placement.

**UTTC** – I urge the Committee to fully fund the United Tribes Technical College, which is an exceptional institution that serves many of our tribal members and provides a sound education.

**Johnson O'Malley Act** (+\$11.0 mil.) – I urge Congress to Increase funding for the Johnson O'Malley Act program to \$24.3 million to address the unique educational and cultural needs of Native children attending public schools (an increase of \$11 million above the Administration's request). JOM was funded at \$24 million in 1994. JOM is a critical program that fully involves local communities and Native parents in the education of our children.

**PUBLIC SAFETY NEEDS** – Living conditions on Standing Rock are difficult. According to recent federal statistics (2010), over 1,163 reservation households on Standing Rock had family incomes between 30%-80% of median family income in the area. On the North Dakota portion of our reservation (Sioux County, ND), the median family income is \$27,473. This figure is 57% of North Dakota's overall median family income of \$47,898. On the South Dakota portion of our reservation (Corson County, SD), the median family income is \$27,591. This figure is about 59% of the South Dakota average median family income of \$46,244. On Standing Rock, 485 households, or 42% of our least well off households, earn 30% of median family income.

We have far too few BIA public safety officers patrolling our eight districts and small communities on our 2.3 million acre reservation. Police officers in Indian country are our primary first

responders. BIA equipment and technology are outdated, including police cruisers, radios and communications infrastructure. We do not have access to computerized law enforcement statistics.

In the spring and summer of 2008, following the deaths of several Tribal members, at our request and with the help of our Congressional delegation, the BIA began "Operation Dakota Peacekeeper" as part of the Interior Department's Safe Indian Communities initiative to reduce crime, target illegal drug activities and provide much needed investigative support to prosecute domestic violence and crimes against children. A total of 56 BIA officers were detailed from their reservations to Standing Rock over a seven month period.

Operation Dakota Peacekeeper more than quadrupled our normal BIA Police force. Before the surge, we had only ten BIA public safety officer positions filled. This was enough for two officers per 24-hour shift to patrol a 2.3 million acre reservation encompassing four towns, eight separate communities, 2,500 miles of roads, and a population of 10,000 residents. The public safety surge was an overwhelming success. Tribal elders felt safe in their homes and began to leave their doors unlocked and windows open at night. It also highlighted the glaring need for greater numbers of patrol and other public safety personnel on our reservation.

Congress enacted and President Obama signed the Tribal Law and Order Act (TLOA) in law which creates a number of important mandates to strengthen tribal courts and justice systems.

Criminal Investigations and Police Services (+25 mil.) - In order for the Administration to fully implement the TLOA and to address the shortfall of more than 1,800 police officers in Indian country cited in a 2006 GAP report, we encourage Congress to increase funding for Criminal Investigations and Police Services to \$215 million, or \$25 million above the 2.2% increase (\$4.2 mil.) proposed by the Administration above the FY 2010 enacted level of \$185 million.

Detention/Corrects (+15 mil.) – Until the BIA addresses the shortages of corrections officers cited in the 2006 GAP report and to implement requirements of the TLOA, we recommend that Congress increase funding for BIA-funded detention/corrections by \$15 million above the Administration's proposed budget of \$85 million.

Tribal Courts (\$+20 mil.) – We urge Congress to increase the modest funding of \$25 million appropriated for the Tribal Courts Program. Our Tribe cannot effectively carry out criminal proceedings, let alone civil cases, with our small BIA allocation, even when heavily subsidized by the Tribe. Our Tribal courts are crowded, cramped and outdated and limit our ability to administer a comprehensive criminal justice system on the Reservation.

Facilities, Operation & Maintenance (+\$5.0 mil.) – We urge Congress to add an additional \$5 million to the BIA-funded Public Safety and Justice's Facility, Operation and Maintenance budget of \$13.7 million. Adequate maintenance and repair is essential to extend the useful life of facility infrastructure and make needed repairs until Indian tribes can invest in adequate infrastructure for Tribal Courts, Police Stations, and detention facilities.

**HEALTH CARE** – The majority of our Tribal elders continue to suffer from diabetes, heart disease and hypertension. Accidents are the leading cause of death among our members. On the North Dakota portion of our reservation, 6.6% of our tribal members are age 65 and older. In

North Dakota generally, 14.7% are age 65 and older (more than double our figure). On the South Dakota portion of our reservation, 9.6% of our tribal members are age 65 and older. In South Dakota generally, this figure is 14.5%, more than fifty percent higher than on our reservation. More is needed to serve our elders properly. All our members deserve the opportunity to live full and productive lives and compete successfully in today's global economy.

We are pleased to see the Administration acknowledge the large health disparity that exists between Native Americans and the rest of the population. The FY 2012 funding of \$4.166 billion for IHS Services is recognition that Indian country still has a long way to go to improve the health of our members. Far too many of our members live with debilitating diseases and illnesses that shorten their lives. We urge the Committee to protect the Administration's proposed increase of \$508 million above the FY 2010 enacted level for IHS Services, which includes an increase of \$89 million for Contract Health Services (CHS) and \$63 million for Contract Support Costs. On Standing Rock, many members go without needed health care services each year because of inadequate CHS dollars. The proposed increases will better enable tribes and the IHS to implement provisions in the permanent extension of the Indian Health Care Improvement Act (IHCIA) that are designed to redress health disparities in Indian country.

**TAKING CARE OF EXISTING INFRASTRUCTURE NEEDS** (+ \$75 mil.) - I strongly oppose the \$1.0 million cut the Administration has proposed for the BIA Road Maintenance Program and the flat line funding this program has received over the last 20 years. The decision to underfund this program will cost taxpayers millions of dollars as tribes and the BIA must reconstruct roads far sooner due to poor road maintenance. With inadequate routine maintenance, roads which should last 20 years, last only 7-10 years. Limited to \$25 million, Tribes operating the Road Maintenance Program cannot tackle the large backlog of deferred road maintenance needs that make our roads and bridges unsafe and impede travel on our reservations. We invested \$26.5 million, which we borrowed from Wells Fargo, to reconstruct nearly 20 miles of community streets. We installed sidewalks, curbs, gutters and street lights throughout the reservation for the first time. We are struggling to maintain that investment because we expend most of our Road Maintenance funds during the winter months to pay for snow removal (labor, fuel, salt, sand, truck repairs and truck rentals, etc.) and to respond to other road emergencies such as floods.

Lack of adequate funding for Road Maintenance and new construction (IRR Program) undermine our ability to achieve every major program priority we have (public safety, health care, education, housing, and economic development). All of these programs depend on and require a modern infrastructure. Road maintenance is a public safety program. Poor road conditions contribute to the unacceptably high levels of serious injury and death on Indian Reservation Roads each year. We urge Congress to appropriate \$100 million annually for Road Maintenance Program so that we can better maintain our road systems.

**ECONOMIC DEVELOPMENT** – We urge the Congress to appropriate \$5 million for the BIA's Office of Indian Energy and Economic Development to help tribes build their reservation economies. Increased appropriations will allow this program to more effectively serve reservations to promote job creation and economic development we so badly need.

Thank you for providing our Tribe the opportunity to present testimony.

**Testimony of  
The Honorable John Yellow Bird Steele, President of the Oglala Sioux Tribe  
Interior Appropriations Subcommittee  
United States House Committee on Appropriations  
May 3, 2011**

My name is John Yellow Bird Steele and I am the President of the Oglala Sioux Tribe. On behalf of my Tribal Council and our Tribal members, I would like to thank you for allowing me this opportunity to testify on issues facing the Oglala Sioux Tribe and the United States' treaty obligations to our Tribe.

Mr. Chairman, if I were to blindfold you and fly you to our reservation, the scene you would behold would make you question what third-world country you were in. The facts, Mr. Chairman, don't lie. Conditions on the Pine Ridge reservation are bad – very bad. From crime to infrastructure, housing to health, the state of our native nation is poor. We have inadequate healthcare, inadequate housing, and crime rates that the President has described as “an assault on our national conscience that we can no longer ignore.”<sup>1</sup> Many people are homeless, because there are not enough homes. Those lucky enough to have a roof over their head still face severe deprivations. Many of our people live in homes without electricity, running water, or proper insulation, and more than half of our citizens live under the poverty line. Unemployment is severe, economic development is needed desperately, and our people suffer from high rates of health maladies and disease. These problems are not new and they will not simply vanish. They are the result of decades of inadequate federal funding. But, I am not here for a handout. I am here to remind Congress of its legal duty to our people.

Our rights and Congress's obligations were set forth in a series of treaties from 1825 through 1868. Under the 1825 Treaty, the Oglala Band of the Teton Division of the Sioux Nation became a protectorate of the United States<sup>2</sup>. In 1851, the United States recognized the seven Teton bands tribes'—which includes our tribe—title to sixty million acres of territory in the present-day states of North Dakota, South Dakota, Nebraska, Montana and Wyoming.<sup>3</sup> However, the United States did not abide by the treaty terms. Continued westward expansion resulted in the Powder River War of 1866-1868. The war ended not in victory for either side, but in a negotiated settlement, and the signing of the Sioux Treaty of 1868.<sup>4</sup> I want to be clear, the Teton tribes were never conquered; the Oglala Sioux Tribe was never conquered; it is a nation that has been at peace with the United States for 143 years.

The Sioux Treaty established a 26 million acre reservation for the “absolute and undisturbed use and occupation” of the Sioux Indian, as a permanent homeland. This reservation is commonly referred to as the “Great Sioux Reservation” which encompasses all of present day South Dakota west of the Missouri River. The 1868 Treaty recognized the remainder of the 1851 Treaty territory, about 34 million acres, as unceded territory. The Teton

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<sup>1</sup> <http://www.whitehouse.gov/the-press-office/remarks-president-during-opening-tribal-nations-conference-interactive-discussion-w>.

<sup>2</sup> Treaty of July 2, 1825 (7 Stat. 252).

<sup>3</sup> September 17, 1851 (11 Stat. 749).

<sup>4</sup> Treaty of April 29, 1868 (15 Stat. 635).

bands' right to hunt in that territory (and westward to the summits of the Bighorn Mountains) was preserved, so long as the buffalo existed in such numbers to justify a chase.

The 1868 Treaty provided for a *quid pro quo*: by the terms of the Treaty, the United States promised to provide certain benefits and annuities to the Sioux bands each year in exchange for the Sioux not occupying their unceded territory.<sup>5</sup> The congressional ratification of that Treaty cemented into law the United States' obligation to make annual congressional appropriations to the Oglala Sioux Tribe. That legal obligation of the United States, freely entered into by the President and ratified by Congress, never expired; on the contrary, it continues to this day. This fact was so recognized by the Indian Claims Commission: "the [1868] treaty was an attempt by the United States to obtain peace on the best terms possible," and the United States promised to provide "goods and services" to the tribes.<sup>6</sup> These "goods and services" include, but are not limited to, congressional appropriations for such things as medical care, education, economic development, law enforcement and safe buildings.

Congressional double-crossing was almost immediate. Recognizing that the Buffalo were the life blood of the Indians, Congressman James Throckmorton of Texas "believed that 'it would be a great step forward in the civilization of the Indians and the preservation of peace on the border if there was not a buffalo in existence.'"<sup>7</sup> In 1877, Congress passed the Black Hills Act,<sup>8</sup> in which Congress illegally took possession of the Black Hills portion of the Great Sioux Reservation in violation of the 1868 Treaty. In 1877, Congress purported to ratify and confirm an earlier "agreement" between the United States and the Teton bands. When the United States could not obtain the required number of signatures, namely three-fourths of the adult male Indians interested or occupying the reservation, as required by Article 12 of the 1868 Treaty, Congress enacted the agreement anyway. The Oglala Sioux Tribe does not recognize the legality of this Act.

Although the Oglala Sioux Tribe has not, and does not, consent to the illegal confiscation of the 7.3 million acre Black Hills territory and the Sioux hunting rights under the 1877 Act, and rejects all payment by the Court of Claims or otherwise for the Black Hills, there is little doubt that the United States has, and still continues to occupy and utilize that Sioux territory. Because of this, the Sioux tribes are entitled to monetary compensation for the denial of their "absolute and undisturbed" rights under the 1868 Treaty to occupy and utilize those lands, and for the damages done to that property.

While the Oglala Sioux Tribe rejects the 1877 Act as illegal, the language of the 1877 Act is still a relevant guide to gage the compensation owed to the Sioux tribes under

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<sup>5</sup> The Indian Claims Commission clearly found that the Sioux who executed this treaty did not understand that they were ceding any territory to the United States: "Nowhere in the history leading up to the treaty negotiations themselves is there any indication that the United States was seeking a land cession or that the Sioux were willing to consent to one. *On the contrary, the evidence is overwhelming that the Sioux would never have signed the treaty had they thought they were ceding any land to the United States . . . .* We conclude as a matter of law that the goods and services promised by the United States under the 1868 treaty were not intended by the Sioux (or by the government negotiators) to be consideration for any Sioux Lands." *Sioux Tribe v. United States*, 42 Ind. Cl. Comm. 214 (1978) (emphasis added).

<sup>6</sup> *Sioux Tribe v. United States*, 42 Ind. Cl. Comm. 214 (1978).

<sup>7</sup> <http://www.pbs.org/wnet/nature/episodes/american-buffalo-spirit-of-a-nation/introduction/2183/>.

<sup>8</sup> 1877 Black Hills Act, February 28, 1877, 19 Stat. 254.

the 1868 Treaty. There are three articles in the 1877 Act that have been used as the “standard” for the *quid pro quo* that the United States must provide to the Sioux (even though the Sioux are not acquiescing to the illegal confiscation of the Black Hills and their hunting rights).

Article 5 of the 1877 Act provides, in part, that “[in] consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the said Indians, *the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts as provided for by the 1868 Treaty.* . . . [and] to provide the said Indians with subsistence consisting of a ration for each individual . . . or in lieu of said articles the equivalent thereof . . . until the Indians are able to support themselves” (emphasis added).

Second, Article 8 mandated that “[t]he provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and, with the provisions of this agreement, shall apply to any country which may hereafter be occupied by the said Indians as a home; and *Congress shall, by appropriate legislation, secure to them an orderly government; they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life*” (emphasis added).

Last, Article 9 provided that “[t]he Indians, parties to this agreement, do hereby solemnly pledge themselves . . . [to] maintain peace with the citizens and Government of the United States; that they will observe the laws thereof and loyally endeavor to fulfill all the obligations assumed by them under the treaty of 1868 and the present agreement, and to this end will, *whenever requested by the President of the United States, select so many suitable men from each band to co-operate with him in maintaining order and peace on the reservation as the President may deem necessary, who shall receive such compensation for their services as Congress may provide*” (emphasis added).

Payment of treaty obligations under the 1868 Treaty has historically been accomplished by direct congressional appropriations.<sup>9</sup> Further, the benefits owed to the Oglala Sioux Tribe under its treaties and the standard established by the 1877 Act are in large part incorporated under the Snyder Act, 25 U.S.C. Sec. 13,<sup>10</sup> as well as through some direct appropriations under authorization acts such as the Mni Wiconi Act,<sup>11</sup> the Higher Education Act of 1965,<sup>12</sup> and under the Indian Law Enforcement Reform Act,<sup>13</sup> which provides for federally funded law enforcement under the Snyder Act.

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<sup>9</sup> For example, the Appropriations Act of March 2, 1934 (48 Stat., 362) provided in part as follows:

Fulfilling treaties with Indians: For the purpose of discharging obligations of the United States under treaties and agreements with various tribes and bands of Indians as follows: Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota (articles 8 and 13, treaty of April 29, 1868, 15 Stat., p. 635, and Act of February 28, 1877, 19 Stat., p. 254), \$401,200.

<sup>10</sup> 25 U.S.C. Sec. 13 (“The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: . . .”).

<sup>11</sup> P.L. 100-516; 102 Stat. 2566, as amended.

<sup>12</sup> 25 U.S.C. § 1001.

<sup>13</sup> 25 U.S.C. § 2808.

## **Treaty Obligations Must Be Honored Through the Budget and Appropriations Process.**

It is the position of the Oglala Sioux Tribe that the United States has lost sight of the fact that certain Indian tribes including the Oglala Sioux Tribe are entitled to benefits under treaties and agreements made in legal exchange for the rights that those tribes lost when the treaties were signed. The promises made by past Administrations and Congresses, who wrote their obligations into law through the ratification of Treaties, must be followed during the development and implementation of budget requests and congressional appropriations. The formulas that the United States uses to provide Trust benefits to Indian tribes should, but fail to provide separate additional benefits to fulfill treaty obligations. The appropriations that the tribes are requesting are not discretionary payments or earmarks; they are instead the fulfillment of the legal and moral obligations of the United States, which arose as a direct result of congressional ratification of those treaties.

Unfortunately, the members of the Oglala Sioux Tribe on the Pine Ridge Indian Reservation suffer from some of the worst socio-economic indicators in the United States. There are an estimated 5,000 gang members in 39 gangs terrifying residents and committing all sorts of crimes in the Pine Ridge reservation.<sup>14</sup> Life expectancy is 45 for men and 51 for women on our land. The Pine Ridge Indian Health Service (IHS) hospital is so understaffed and underfunded that it was ultimately placed under a Directed Plan of Action by the Center for Medicare Services (CMS) in December 2010. Just to meet recognized standards of care, the hospital needs an additional \$20 million in funding.

The infrastructure deficit on our land is deplorable. Many of our people are still waiting for the day when their homes have running water and electricity, let alone high-speed internet service. Overall, there are more than a billion dollars of needed improvements and repairs, alone.

To go into greater detail about all the calamities facing our people would take days, if not weeks. But, I want to reiterate: we are not looking for a hand-out. We want to help ourselves. The Oglala Sioux Tribe already works hard to raise the quality of life for tribal members and to improve conditions on the Pine Ridge Reservation. We, however, must have adequate resources to fulfill our obligations to our own people, resources that your predecessors promised us in the treaties. In formulating this year's appropriations, we can do nothing less than demand that the United States live up to its treaty obligations and fully fund all needed projects and improvements for our people.

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<sup>14</sup> Erick Eckholm, Gang Violence Grows on an Indian Reservation, N.Y. Times, A 14, December 14, 2009, available at <http://www.nytimes.com/2009/12/14/us/14gangs.html>.

## UNITED TRIBES TECHNICAL COLLEGE

3315 University Drive  
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Presented before the House Interior, Environment and Related Agencies  
Appropriations Subcommittee

David M. Gipp, President

May 3, 2011

For 42 years, United Tribes Technical College (UTTC) has provided postsecondary career and technical education, job training and family services to some of the most impoverished, high risk Indian students from throughout the nation. We are governed by the five tribes located wholly or in part in North Dakota. We are not part of the North Dakota state college system and do not have a tax base or state-appropriated funds on which to rely. We have consistently had excellent retention and placement rates and are a fully accredited institution. *Bureau of Indian Education funds represent about half of our operating budget and provide for our core instructional programs.* These funds are authorized under Title V of the Tribally Controlled Colleges and Universities Act. The requests of the UTTC Board for the FY 2012 Bureau of Indian Education (BIE)/Bureau of Indian Affairs (BIA) budgets are:

- \$6.4 million in BIE funding for UTTC for our Indian Self-Determination Act contract, which is \$2 million over the FY 2010 enacted level and the President's FY 2012 request. This is our base funding.
- One-time funding to forward fund United Tribes Technical College and Navajo Technical College who were inadvertently left out of the forward funding of the tribal colleges in FY 2010. We estimate the cost to be \$5 million.(BIE funding)
- \$4.375 million toward Phase I of a planned Northern Plains Indian Police Academy located at UTTC. (BIA funding)

Base Funding. UTTC administers its BIE funding under an Indian Self-Determination Act agreement, and has done so for 34 years. Funds requested above the FY 2010 level are needed to: 1) maintain 100 year-old education buildings and 50 year-old housing stock for students; 2) upgrade technology capabilities; 3) provide adequate salaries for faculty and staff (who have not received a cost of living increase for the past two years and who are in the bottom quartile of salary for comparable positions elsewhere); and 4) fund program and curriculum improvements, including at least three four-year degree programs.

Acquisition of additional base funding is critical as UTTC has more than tripled its number of students within the past eight years while actual base funding for educational services, including Carl Perkins Act funding, have not increased commensurately (increased from \$6 million to \$8 million for the two programs combined). Our BIE funding provides a base level of support while allowing the college to compete for desperately needed discretionary contracts and grants leading to additional resources annually for the college's programs and support services.

Forward Funding. There was a *glitch in the FY 2010 appropriations process* which resulted in UTTC (and Navajo Technical College or NTC) not receiving BIE forward funding. There is authority for forward funding for tribal colleges under the Tribally Controlled Colleges and Universities Act, 25 USC 1810(b)(1) and (2). This authority applies to all colleges funded under that Act, including UTTC and NTC. When the Administration requested \$50 million for forward funding its FY 2010 budget, they asked for it under the line item of "tribally controlled colleges and universities" – that line item includes 26 tribally controlled colleges. However, UTTC and NTC are funded under a different line item which is "tribal technical colleges" and thus when Congress provided the requested \$50 million for forward funding, UTTC and NTC were left out of the picture.

Forward funding requires a *one-time* extra appropriation of three-quarters of a year's funding; hence, *we are requesting, in addition to our regular FY 2012 appropriation, \$3,330,750 in the FY 2012 appropriations bill to forward fund United Tribes Technical College. (75% of \$4,441,000, the FY 2010 BIE appropriation for UTTC, is \$3,330,750). The total BIE FY 2010 appropriation for "tribal technical colleges" was \$6,669,000 (\$4,441,000 for UTTC and \$2,228,000 for NTC). To forward fund both institutions would require \$5,001,750 in addition to the regular FY 2012 appropriation.*

Northern Plains Indian Law Enforcement Academy. We have been working toward the establishment of a police training academy on our campus. We have done this with the encouragement of our Congressional delegation and tribes, especially those in the Northern Plains. Toward that end we signed a Memorandum of Understanding in 2008 with the BIA and the American Indian Higher Education Consortium to provide supplemental in-service training to BIA and tribal police officers as maybe agreed upon by the BIA.

In FY 2010, \$250,000 was appropriated to the BIA and designated as special initiative of the Indian Police Academy (IPA) in New Mexico to work with UTTC on law enforcement training matters. This is just the beginning of what is really needed. The only Indian police academy now is in Artesia, New Mexico which, while doing excellent work, can train only 3 classes of 50 persons annually. The BIA estimates that tribal police officers are staffed at only 58 percent of need, indicating that the need for police officers in Indian Country is far greater than can be supplied just by the IPA in Artesia. To satisfy that need, the BIA needs to establish a full-fledged law enforcement academy in the Northern Plains. An academy at UTTC would allow tribal people in the Plains areas a more affordable choice of training locations, minimizing the distance and long separation of trainees from their families. Our campus has many built-in services and resources to meet the needs of trainees.

Our request of \$4.375 million is for Phase I of the police academy facility, which will include the basic building for instruction of 35,000 square feet, enough to train up to 165 law enforcement officers per year. We have entered into discussions with federal, local and state officials to ensure the facility and the training we offer will meet all requisite standards, and to coordinate what portion of the facility should be placed at UTTC and which portions may be placed elsewhere, in order to share the cost.

*FOURTEEN MORE THINGS WE WANT YOU TO KNOW ABOUT UTTC: We have:*

- A dedication to providing an educational setting that is geared to the full range of student needs, thus enhancing chances for success – educational, cultural, necessary life skills.
- Services including campus security, a Child Development Center, family literacy program, wellness center, area transportation, K-8 elementary school, tutoring, counseling, and family and single student housing.
- A semester completion rate of 80-90%.
- A graduate placement rate of 94% (placement into jobs and higher education).
- A projected return on federal investment of 20-1 (2005 study).
- Unrestricted accreditation from the North Central Association of Colleges and Schools.
- Over 30% of our graduates move on to four-year or advanced degree institutions.
- A student body representing 87 tribes who come mostly from high-poverty, high unemployment tribal nations in the Great Plains; many students have children or dependents.
- 81% of undergraduate students receive Pell Grants, the highest percentage of Pell Grant recipients of any North Dakota college.
- 21 two-year degree programs, eight 1-year certificates and 3 bachelor degree programs pending final accreditation this Spring.
- An expanding curricula to meet job-training needs for growing fields including law enforcement, energy auditing and health information management. We have also broadened our on-line program offerings.
- A critical role in the regional economy. Our presence brings \$31.8 million annually to the economy of the Bismarck region.
- A workforce of over 300 people.
- An award-winning annual powwow which last year had participants from 70+ tribes, featuring over 1500 dancers and drummers, and drawing over 20,000 spectators. We annually feature indigenous dance groups from other countries.

The Duplication or Overlapping Issue. The General Accounting Office in March of this year issued two reports regarding federal programs which may have similar or overlapping services or objectives (GAO-11-474R and GAO-11-318SP). Funding from the BIE and the Department of Education's Carl Perkins Act for Tribally Controlled Postsecondary Career and Technical Education were among the programs listed in the reports. *The full GAO report did not recommend defunding these programs; rather, consolidation of these programs was recommended to save administrative costs.* We are not in disagreement about possible consolidation of our funding sources, so long as program funds are not cut.

BIE funds represent about 54% of UTTC's core operating budget. The Perkins funds supplement, but do not duplicate, the BIE funds. *It takes both sources of funding to frugally maintain the institution.* In fact, even these combined sources do not provide the resources necessary to operate and maintain the college. Therefore, UTTC actively seeks alternative funding to assist with academic programming, deferred maintenance of its physical plant and scholarship assistance, among other things.

Secondly, as mentioned, UTTC and other tribally-chartered colleges are not part of state educational systems and do not receive state-appropriated general operational funds for their Indian students. The need for postsecondary career and technical education in Indian Country is so great and the funding so small, that there is little chance for duplicative funding.

There are only two institutions targeting American Indian/Alaska Native career and technical education and training at the postsecondary level—UTTC and NTC. Combined, these institutions received less than \$15 million in FY 2010 federal funds (\$8 million from Perkins; \$7 million from the BIE). That is not an excessive amount of money for two campus-based institutions who offer a broad (and expanding) array of programs geared toward the educational and cultural needs of their students and toward job-producing skills.

UTTC offers services that are catered to the needs of our students, many of whom are first generation college attendees and many of whom come to us needing remedial education. We also provide services for the children and dependents of our students. Although BIE and Section 117 funds do not pay for remedial education services, UTTC must make this investment with our student population through other sources of funding to ensure they succeed at the postsecondary level.

Federal funding for American Indian/Alaska Native employment and training is barely one percent of the annual federal employment and training budget but has an enormous impact on the people and communities it serves.

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Our Bureau of Indian Education and DOEd Perkins funds provide for nearly all of our core postsecondary educational programs. Very little of the other funds we receive may be used for core career and technical educational programs; they are competitive, often one-time supplemental funds which help us provide the services our students need to be successful. We cannot continue operating without these funds. Thank you for your consideration of our requests.