

**Statement of Eugene “Ribs” Whitebird  
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Leech Lake Reservation, Minnesota**

**Public Witness Hearing on Native American Issues  
House Interior Appropriations Subcommittee  
March 27, 2012**

My name is Ribs Whitebird, and I am a Member of the Tribal Council of the Leech Lake Band of Ojibwe located on the Leech Lake Reservation in northern Minnesota. Thank you, Chairman Simpson, Ranking Member Moran, and other Members of the Committee for holding this important hearing and for providing me the opportunity to testify today. The Band deeply appreciates this Subcommittee’s efforts to protect funding for critical Indian programs in furtherance of the United States’ treaty and trust responsibilities to Indian tribes and Indian people. We extend our heart-felt gratitude to you for your commitment in making sure that the United States lives up to its trust and treaty responsibilities.

The Leech Lake Reservation has numerous needs on which I could testify. However, given how dire the need is, I focus my testimony today solely on the Band’s long struggle to replace our high school facility at the Bug O Nay Ge Shig School (High School), which is administered and funded by the Bureau of Indian Affairs’ (BIA) Bureau of Indian Education (BIE). I doubt any Member of Congress would allow their children to attend school in a sub-standard facility like our children do at the High School. This is my second time to testify before the Subcommittee about this need. My hope is that next year I can come back to provide a favorable report that progress is being made on the High School’s replacement. Also, I would like to thank Representative McCollum for her tireless efforts to assist us in replacing the High School. We are deeply grateful for her support.

We estimate that the cost to replace the High School facility is approximately \$25 million, which includes a 42% BIA administrative cost of \$7.4 million. We do not understand why the United States can spend billions of dollars on foreign aid, bailouts, and other things but then gives excuses why it does not have the funding to build adequate school facilities for our children. Education is the key to the future. We must invest in our children for the United States to be competitive with the rest of the world. However, when it comes to American Indians, the history is tragic and filled with broken promises.

**History of Indian Education**

Before discussing the specific needs of the High School, I would like to briefly discuss the history of Indian education in America. As this Subcommittee is well aware, federal laws, treaties, and policies acknowledge the federal government’s obligation to provide for the education of American Indian children.

After formation of the United States, Indian tribes ceded hundreds of millions of acres of our homelands to the federal government to help build this nation. In return, the U.S. made promises

to make the resulting reservations permanent livable homes, including providing for the education, health, and general welfare of reservation residents. These treaty promises were made in perpetuity, remain the supreme law of the land, and do not have an expiration date. However, as you know and as tribal leaders are stating in these hearings today, these promises have not been kept, and our children suffer because of it.

### **Pressing Need to Replace High School Facility at Bug O Nay Ge Shig School**

The Bug O Nay Ge Shig School (School) is located in Bena, Minnesota, operated by the Leech Lake Band of Ojibwe and governed by the Bug O Nay Ge Shig School Board. The School serves nearly 300 Native American children in grades K-12 who commute from 14 communities located within five counties within a 70-mile radius of the School. The School was founded in 1975 with 35 Ojibwe students from the Leech Lake Reservation in response to parental concerns that public schools were not meeting the academic and cultural needs of Ojibwe students. Since that time, the School has transformed itself into a magnet school, teaching state-approved curricula with Ojibwe cultural components. Given the educational opportunities the School provides to Native American students, enrollment in the School overall has steadily increased over the years. The enrollment increase is a testament to the strong educational achievement at the school given that students typically will choose to go to other schools when school facilities, such as at the High School, are deficient and present health and safety hazards.

The elementary and middle school facilities are in satisfactory condition, but the High School is in dire need of replacement. The current High School facility is a metal-clad pole barn, formerly used as an agricultural building. One-third of the high school facility was destroyed in a gas explosion in 1992. The facility has serious structural and mechanical deficiencies and lacks proper insulation. The facility does not meet safety, fire, and security standards due to the flimsiness of the construction materials, electrical problems, and lack of alarm systems. Further, the building lacks a communication intercom system, telecommunication technology, and safe zones, which puts students, teachers, and staff at great risk in emergency situations.

Also, the facility jeopardizes the health of the students and faculty due to poor indoor air quality from mold, fungus, and a faulty HVAC system. The facility also suffers from rodent infestation, roof leaks and sagging roofs, holes in the roofs from ice, uneven floors, poor lighting, sewer problems, lack of handicap access, and lack of classroom and other space. These are just a few of the facility's numerous deficiencies. Due to the unsafe and undesirable condition of the High School, many students leave after middle school to attend the public high school. Students are embarrassed about the condition of the High School, resulting in a negative image of the School in the community and a lower matriculation rate.

The High School is on the BIA's list of schools in need of replacement and has exceeded its life expectancy by decades. The BIA categorizes the high school facility as being in "poor" condition. The BIA Midwest Regional Office for the Office of Indian Education Programs compiled a report in 2007, expressing strong concerns about the electrical problems, potential fire issues, and student safety. The BIA Office of Facilities, Environmental, Safety, and Cultural Management had documented the numerous and serious deficiencies of the High School.

Further, in responding to a letter inquiring about the High School from Ranking Member Moran, BIA Assistant Secretary Larry EchoHawk stated in a letter dated February 28, 2011:

The Bug O Nay Ge Shig High School shows evidence of continuing deterioration . . . Due to the type of construction of the Bug O Nay Ge Shig High School, improvements to the school such as expansion or construction of one building for classrooms or administrative space is not an optimum solution. **Preliminary evaluations indicate that the building should be replaced** (emphasis added). The estimated date of replacement will depend on the priority ranking of the high school and amount of funds available to correct school facility deficiencies through education construction appropriations.

The High School is among the more than 63 schools funded by the BIE that are in poor condition. DOI is currently engaged in a negotiated rule-making process where we understood that it was in the process of developing a new priority list for school construction. However, the BIA's FY13 budget request proposes eliminating funding for replacing BIE school facilities and focusing instead solely on facilities improvement and repair. This is unacceptable to us. We cannot keep putting band-aids on our deplorable and crumbling buildings. The High School is in such sub-standard condition that no amount of repairs or improvements will turn it into an adequate school facility. Our children and our communities deserve better than this.

### **Urgent Need for Action to address BIE Construction Backlog**

The discussion of the construction needs of Indian schools has been ongoing for more than a decade. Federal officials testify, point fingers, and yet nothing has been resolved. When we have met with the BIA and OMB over the past couple of years, they each tell us that it is not their agency's fault but the other agency's fault that there is no funding to replace the High School. BIA tells us that they have no money for school construction and to talk to OMB, and OMB tells us that they provide funding to BIA for construction and that BIA is not utilizing the funding effectively. At the end of the day, DOI and OMB are quick to blame each other but provide no solutions, forcing our children to shoulder the burden. Further, it is extremely difficult navigating the byzantine BIA bureaucracy and its layers to obtain school construction information. Now, the BIA is proposing to change its policies altogether by eliminating funding to replace school facilities to instead focus on facilities repair and improvement. There has been no government-to-government consultation on this proposed policy change, and there must consultation first on this matter. BIA should not be able to make this decision unilaterally without meaningful consultation with tribes.

Without proper facilities, our children's educational opportunities are compromised. Section 7101 of Title VII of the No Child Left Behind Act (NCLB) states:

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with . . . Indian tribes . . . toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary

and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

In accordance with its obligation to Indian children, the United States must work with us to seek a solution to ensuring that our children go to school in adequate facilities.

We recognize that previous Administrations had a hand in creating the BIE construction backlog, which is at least \$1.3 billion; however, looking at the current Administration's funding requests since it has been in office, it is clear that the need to improve BIE school facilities is not a priority. The FY13 budget request for Indian school construction funding is \$52.866 million, which is a proposed cut of \$17.960 million from the FY12 enacted level and a cut of \$87.643 million from the FY11 actual level. The enacted levels for Indian school construction over the past 8 fiscal years have steadily and rapidly declined. The FY05 enacted level for Indian school construction was \$263.3 million, the FY06 enacted level was \$208.9 million, the FY07 level was \$204.9 million, the FY08 level was \$142.9 million, the FY09 level was \$128.8 million, the FY10 level was \$113 million, the FY11 level was \$140.509 million, the FY12 level was \$70.826, and, as noted above, the proposed level for FY13 is a dismal \$52.866 million.

The Administration's failure to request and Congress' failure to appropriate sufficient funding for BIE school construction is unconscionable in light of recent DOI Office of Inspector General reports finding "severe deficiencies" at BIE schools that "have the potential to **seriously injure or kill students and faculty** and require immediate attention to mitigate the problems."<sup>1</sup> 1/3 of the 183 BIE schools are in poor condition and in significant need of repair or replacement. Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than 20% are older than 50 years. On average, BIA education buildings are 60 years old, while the national average for public schools is 40 years.

## **Conclusion**

As noted above, our students deserve the opportunity to attend school in a safe environment that provides them with educational opportunities afforded other students. The United States owes them this. Instead, our students attend high school in a sub-standard, dangerous environment that is not conducive to learning. This affects their self-worth, creates feelings of inferiority, and sends a message to them that their education and even their lives are unimportant.

We plead and urge the Committee to work with DOI to quickly develop a comprehensive plan of action and to quickly find the funding to address the construction needs at the High School. The federal government's responsibility for the education of Indian people is in response to specific treaty rights; and anything less than full funding of Native education programs signifies increased negligence of its trust responsibility.

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<sup>1</sup> Department of the Interior Office of Inspector General Flash Report, *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, C-IN-BIA-0008-2007 (May 2007) (emphasis added).