



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation

Tribal Business Council

Tex "Red Tipped Arrow" Hall
Office of the Chairman

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Good Morning Mr. Chairman:

My name is Tex Hall. I am the Chairman of the Mandan, Hidatsa and Arikara (MHA) Nation of the Fort Berthold Indian Reservation in North Dakota. Thank you for the opportunity to testify.

I would like to focus my remarks on five major areas: 1) our need for staff quarters for our new health facility; 2) our need for funding to address the severe damage that oil and gas development has caused to our BIA and tribal roads; 3) our need to make permanent the one-stop shop funding that you provided in FY 2012; 4) the need for additional Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM) personnel to process oil and gas permits for MHA and other tribes involved in oil and gas development and; 5) the need to legislatively postpone the use of federal funds to implement the BLM's newly proposed regulations on hydraulic fracturing.

Let me start with our health facility staff housing crisis. After many years, Congress finally authorized and appropriated funds to reconstruct the MHA tribal health facility that was destroyed by the construction of the Garrison Dam. Because this facility was destroyed by the Army Corps of Engineers, funding for the reconstruction of that facility was provided through the Army Corps' appropriation. Under that Congressional authorization, the Army Corps built the building and turned it over to the Indian Health Service (IHS) to operate and maintain upon completion. This turn-over occurred at the end of FY 2012.

The understanding was, and is, that IHS assumed all responsibility for the staffing of that facility the day that turnover took place. And, to their credit, IHS has sought and received funding to staff that new facility in both FY 2012 and in the President's Budget Proposal for FY 2013. This was due, in large part, to the efforts of this Subcommittee and I would like to thank you for your assistance.

We now need just one more crucial piece to bring this project to completion. That is funding for staff quarters for the new personnel that this Subcommittee funded in FY 2012. As you are aware, the MHA Nation is located in the Bakken Formation, the fastest growing oil and gas development area in the United States. While the oil and gas boom on the Reservation and in the region has brought with it many positive things, it has also brought us some serious problems. One of those problems is a total lack of available housing within 100 miles of our Reservation. Since the boom, every available housing unit within 100 miles of our new clinic has already been placed under contract or lease. Even when housing does open up, which is extremely rare, two and three bedroom homes are now renting for in excess of \$2,500 per month, an after tax cost which no mid-level IHS funded employee can possibly afford.

We have been pressuring IHS to address this staff housing problem since well before this facility was completed, but their only response has been that since this new facility was not constructed by IHS, they feel no obligation to request funding to house the new IHS funded staff who will service this facility. This is ridiculous. I am convinced that their unwillingness to address this problem stems directly from the fact that the Tribe operates this facility under a P.L. 93-638 contract with that agency. If they were running the facility with their own staff, they would not have the luxury of ignoring this housing problem.

The bottom line is that we need a minimum of \$12 million to construct homes for the 60 plus IHS funded employees that this Committee has appropriated dollars to hire. The MHA Nation has already done its part, by spending in excess of \$1.6 million in tribal funds to prepare the site for these new homes and bringing in the utilities, but we simply cannot afford to construct those units.

If this funding is not forthcoming, we will not be able to recruit all of the personnel that this Subcommittee agreed that we need, and we will have to increase the salaries of the few clinical staff that we can recruit, just to allow them to pay the high costs of housing and commuting to and from work on our Reservation. This is not an effective use of federal dollars, and it will undercut our ability to deliver effective health care to our people at a reasonable cost to the taxpayer. So please help us address this problem by providing the FY 2013 staff quarters funding we so desperately need. The federal government has already spent in excess of \$20 million to develop this facility and it makes no sense not to finish the job.

Next let me turn to the road safety crisis that oil and gas development has created on my Reservation. The pictures attached to this testimony will show you exactly what I mean. The Fort Berthold Reservation consists of approximately 1 million acres of land and it is served by approximately 1,081 miles of roads, over 260 of which are BIA and tribal. None of these roads were built to handle the types of heavy equipment and heavy trucks utilized by the oil and gas industry. In fact, only around 26.6 % of the roads on the Fort Berthold Reservation are paved. Another 57.7% are gravel, and our remaining roads are a mix of dirt and local materials. Most of the paved roads that we do have, or perhaps I should say did have, because many of them are now covered by nothing except loose gravel and broken pieces of asphalt, were constructed in the late 1970's and 1980's with only 2 inches of bituminous asphalt. The engineers at the time simply did not anticipate the possibility that these roads would have to withstand the types of heavy truck traffic that has come from the oil and gas boom in our area.

Since the advent of increased drilling, traffic on these federal and tribal roads has increased substantially. For example, according to a report in the Minot Daily News, printed in June of 2010, the 4.5 mile stretch of tribal highway from the Four Bears Bridge east to New Town alone saw over 6,300 vehicles a day and that traffic has increased substantially since this was reported. That is 44,506 vehicles a week and 2.3 million vehicles a year. This makes that stretch of road the busiest highway in our area. This roadway, and Highway 22 are the main routes our tribal members and other residents use to go to work, obtain healthcare, buy food and obtain other necessary goods and services. Minot Air Force Base missile crews also use this route when traveling to and from their missile facilities. Those roads have been almost totally destroyed by oil and gas related traffic.

Presently, there are so many potholes on our paved roads that the Tribe simply cannot keep up with the maintenance, especially given our all too inadequate BIA roads maintenance budget of \$456,000 per year. In fact, many of our roads are so deteriorated, that we have been forced to remove the asphalt covering just to allow our cars to pass over them. We put in a patch, the patch does not hold and the next section of road just falls away. This problem is presenting a very real danger to our school busses, emergency vehicles, the general public and even the vehicles operated by the oil and gas industry itself. In short, it has become a crisis that needs to be addressed before more people are killed.

Mr. Chairman, these are federal roads, and this subjects the federal government to liability for negligent maintenance and construction. I fear every day that I will get a call telling me that a school bus full of children has tipped over killing a number of our students. I already receive almost daily calls telling me of serious accidents involving our members. In fact, we now have so many accidents on my Reservation, that my staff does not even bother to call me unless the injuries are life threatening. The situation has now gotten to be that bad.

Mr. Chairman, we realize that this is a unique situation, which requires a unique solution. That is the reason that I am here today. Very few other reservations have federal roads that are in the middle of oil and gas development of this kind. Every time we have an accident, the costs associated with those injuries dips into our IHS contract health care budget, and we are literally eating our federal student transportation, law enforcement, and ambulance budgets alive just paying for vehicle repairs. We need a solution to this problem and we need it now. That solution cannot come from the normal BIA's Indian Reservation Roads budget, because that budget was never intended to handle a problem like this. What we need is a separate one time appropriation to reconstruct our main roads in a manner which allows them to be maintained at a reasonable cost. This effort will require around \$54 million. I know that this is a difficult request given what is happening with the federal budget, but if the federal government truly wants to see oil and gas development within the boundaries of the United States, it has to take responsibility for the damage that this type of production causes to its own federal roads and small communities like MHA. It's just that simple. This appropriation will not only save United States taxpayers' dollars in the long run, it will create jobs, stimulate the economy, and most importantly it will save American lives.

Now let me turn to some basic oil and gas related issues. First, I would like to thank you for providing FY 2012 funding for our "one-stop shop" which oversees and coordinates oil and gas permitting activities. In these days of high gas prices, when everyone is talking about decreasing our dependence on foreign oil, it makes no sense to have new oil and gas development on our reservation brought to a virtual halt merely because the BIA and the BLM cannot process the federal permits necessary for that drilling in a timely manner. My request today, is that you make that FY 2012 funding a part of the permanent base budget of the BIA.

For at least the past three years, the Department has sought \$500,000 for the Office of Indian Energy and Economic Development (OIEED), which is within the Assistant Secretary for Indian Affairs' Office, to run the one-stop shop. The \$500,000 provided to OIEED for coordinating and overseeing oil and gas activities at Fort Berthold should be reallocated to the BIA to ensure that this funding is built into the BIA "base" and available each fiscal year. Currently, as a part of OIEED funding, the positions and technical expertise supported by this funding are subject to political decision-making and not necessarily guaranteed to support the

development of tribal trust resources on the Fort Berthold Reservation. These activities are essential to managing the extensive oil and gas development on our Reservation and cannot be subject to the political winds.

This funding began with former Senator Dorgan's request that Interior to create a "one-stop shop" at Fort Berthold to improve coordination and communication between the 4 federal agencies involved in oil and gas permitting on Indian lands. These 4 agencies follow a 49-step process for approving a single oil and gas permit. In 2008, while the federal agencies struggled to permit a handful of wells within the Reservation, gas flares began to light up the night sky just over the Reservation boundary. Meanwhile leases and permits were clogging the agencies' 49-step system. However, within a couple years of establishing the "one-stop shop," Senator Dorgan reported that the "one-stop shop" had increased permit approvals by 4 times.

The success of oil and gas development at Fort Berthold and Interior's interagency coordination has been highlighted many times, including in Interior's FY 2011 and 2012 "Interior Budget in Brief" and in a January 12, 2012, Interior press release entitled, "Energy Production on Ft. Berthold Reservation in North Dakota Provides Substantial Economic Benefits to American Indian Communities - Federal partnership facilitates development of Bakken Formation resources."

The staffing and expertise that the "one-stop shop" has brought to Fort Berthold needs to be maintained. MHA Nation asks that the Appropriations Committee reallocate the \$500,000 for the one-stop shop from OIEED to BIA's base budget for the Great Plains Region and the Fort Berthold Agency Office specifically. This level of funding needs to be maintained, and even increased, to keep the permit approval process running smoothly and to eliminate existing and growing permit backlogs at the BLM and Environmental Protection Agency.

Last, but clearly not least, I need your help to stop BLM from implementing its proposed hydraulic fracturing requirements. MHA and every the other oil and gas tribe in the country was shocked to learn that the BLM is planning to implement new requirements for oil and gas related fracturing activities on our reservations, especially in light of the fact that the BLM currently has no staffing for this new activity, no standardized process, and no proposed system for processing and approving these plans. This is exactly the type of federal mismanagement of oil and gas resources that tribes have been complaining about for at least the last four years.

Because time is of the essence, this Subcommittee needs to act to prevent BLM from expending any federal money to implement these new regulations and requirements in order to save domestic energy production and jobs in many states across the Country. Indian energy development would be hit particularly hard. It already takes 5 to 20 times longer to get an oil and gas permit on Indian lands. And, as you know from our past One-Stop Shop requests, BLM and the other federal agencies involved in on-reservation permitting already lack the staff required just to keep up with their current responsibilities. For this reason alone, Congress should prevent BLM from creating another requirement that it does not have any practical ability to implement.

The appropriations language that we are requesting should prohibit federal dollars from being used to implement these new hydraulic fracturing requirements until such time as the BLM takes and completes a number of prerequisites. First, the BLM needs to be required to follow the

Department's own policy on meaningful tribal consultation. Simply put, it needs to meet with the Tribes who will be impacted by these new requirements and start working with them to insure that their practical problems are addressed before these new requirements take effect.

Second, BLM should not be allowed to implement these new requirements until the Environmental Protection Agency (EPA) completes the study on hydraulic fracturing that the full House Appropriations Committee requested in its FY 2010 budget report, and until the tribes have had an opportunity to review and respond to that study. EPA expects to complete that study in 2014.

Third, BLM needs to develop a staffing and implementation plan to ensure that its review and approval of hydraulic fracturing plans will not add to the already unreasonable delays that we face in trying to get oil and gas permits approved on Indian lands. It should also be required to request and receive the funding necessary to fill those plan approval positions, and to complete the hiring and training of those individuals, before it is allowed to implement these types of new regulations.

Finally, BLM should also be required to demonstrate: 1) that it can maintain the staffing levels necessary to review and approve hydraulic fracturing plans, 2) that it has an adequate process in place to ensure that there is no duplication of existing requirements for on-reservation permits to drill and 3) that it has an implementation plan that will phase in hydraulic fracturing requirements over time, as the federal agencies and the oil and gas industry working on our reservations become familiar with these new demands. If this is not done, our oil and gas production on our reservation will cease. It's just that simple.

Thank you again for allowing me to present this testimony. I will be happy to answer any questions you may have.



