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IMPROVING HOUSING OPPORTUNITIES FOR NATIVE AMERICANS

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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IMPROVING HOUSING OPPORTUNITIES FOR NATIVE AMERICANS

Monday, May 3, 2004

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 12:00 p.m., at the Greyhills Academy High School Auditorium, Tuba City, Arizona, Hon. Robert W. Ney presiding.

Present: Representatives Renzi and Waters.

Also Present: Representative Matheson.

Chairman NEY. The subcommittee will come to order.

I wanted to explain the process a little bit before we start and make an opening statement and then we will have other members make opening statements.

But the Financial Services Committee of the U.S. House is chaired by Mike Oxley of Ohio, and the ranking member is Barney Frank of Massachusetts, and we have the Subcommittee on Housing and Community Opportunity, which is what this subcommittee is of the U.S. House.

My name is Bob Ney. I'm the chairman of the subcommittee. I'm from the State of Ohio. We also have our ranking member to my right, Maxine Waters of California. To my left, everybody knows Congressman Renzi of Arizona. And I assume that applause is for all three of us right now. To my extreme right, Congressman Matheson of Utah. You can applaud for him, too.

This is an official hearing of the U.S. House of Representatives subcommittee. We have a timer, and we basically run the timer. It makes a beep, I think. We will give you a little tap here. That doesn't mean we are going to cut you off right at that spot in the middle of your sentence, but we keep it to five minutes of testimony from each witness. And I think we have 16 witnesses today, so we are going to try to hold it to five minutes and then the members up here will have five minutes to ask questions. But, again, if you are in the middle of your statement, feel free to complete it. But that way, if we hold you to the five minutes, that will give us time.

And anything you want to submit for the record, we will do that without objection. And you can submit the rest of your testimony for the record. So, without objection, all of the opening statements will be made part of the record of the U.S. House.

I also wanted to tell you the Subcommittee on Housing last year—and I want to praise our ranking member, Maxine Waters of California, and the rest of the members frankly, that couldn't be here today—we passed approximately 11 housing bills that actually went on to be signed into law. And that was done, and I'm very proud of our roll call vote in the subcommittee. It doesn't mean we didn't have our differences or didn't speak our peace on things, but the subcommittee, I think, acted on a bipartisan basis. And I wanted to commend our ranking member, Maxine Waters, and members of the committee who really tried in a diligent way to do something about housing. Sixty some percent of Americans have housing. The minority rate is 50 percent. That is unacceptable, and we have taken some steps, there are a lot more steps to be taken, so everybody can share in the American dream.

I do want to tell you how this particular subcommittee hearing came about. It happened about 2:00 o'clock in the morning. We were having one of those late night votes, and Congressman Renzi—I will let him tell you the story when he makes his own statement, but he came to me and he had seen some very, very deplorable conditions when it came to housing. The housing subcommittee also oversees Indian housing, so Congressman Renzi asked the question of myself, which we said yes to, and with the cooperation of our ranking member, Maxine Waters, we are here today along with our colleague, Congressman Matheson, who is concerned about this issue.

When Congressman Renzi asked for this hearing, we started to research back—this is Tallman Johnson of our staff, and also Cindy Chetti is here in the back, and I know Congresswoman Waters will introduce the staff that's here for the minority. But we researched back, and there had never been a hearing on Indian land in the history of the United States by a housing subcommittee. So this is the first time in the history of the United States that there is a hearing. I want to thank Congressman Renzi for making that possible. I guess I could say it's long overdue.

So it's a historic day for our Subcommittee on Housing and Community Opportunity, and as chairman, it's my honor to preside over today's proceedings which, again, is the first time this subcommittee has ever held in the history of the United States a hearing on tribal land.

Presently, the Native American population is estimated at 2.5 million. While the national poverty rate is 12 percent, the rate among Native Americans is more than twice as high. Forty-five percent of all Native American households are located on tribal lands, and housing is one of the most pressing issues for Native Americans living on tribal lands.

Over 32.5 percent of the homes located on tribal lands are overcrowded; 7.5 percent of the Native American homes lack safe water or sewage systems; less than 50 percent of the homes on reservations are connected to public sewer systems, and 16.5 percent of homes on native lands are completely without any form of indoor plumbing. About 40 percent of tribal homes are considered substandard compared to a national average of six percent.

Native Americans today are experiencing chronic housing affordability problems. Approximately half of the Native American house-

holds in tribal areas pay over 30 percent of their income for housing expenses compared to the 23 percent of all U.S. residents who pay more than 30 percent of their income for their housing expenses. Much of this is due to the unique relationships, I believe, that Indian tribes have with the U.S. Government. Native Americans while residing on reservations are U.S. Citizens, but their tribes are recognized as domestic sovereign nations with treaty relationships with the U.S. Government. The fact that the Bureau of Indian Affairs, BIA, holds much of the land in trust means that tribes are allowed only limited sovereignty over their lands. This special relationship limits the types of economic activity for which Indian lands may be used, and I'm hoping today this hearing will be the step to try to bridge that so that more things will be able to happen.

One of the most important cornerstones to a strong community is homeownership. It creates stability and serves as a strong economic staple in our overall U.S. economy. While the national homeownership rate has steadily risen and is at an all-time high of over 68 percent, there are sectors of the population for whom homeownership remains unattainable. In fact, the homeownership rate for Native Americans is well below 50 percent. Clearly, more can and should be done to help all families realize the dream of owning a home.

The changing land status issues, diversity of tribal laws and governments, lack of mortgage information and credit issues all contribute to the challenges in mortgage lending in Indian country. Developmental programs delivered to Indian lands should be highly flexible and adaptive to the very unique and specific circumstances in each tribal setting. Native Americans must be able to take full advantage of partnerships and partnering and leveraging efforts across institutions and at all levels of our government and through all agencies where it's available. If we begin to succeed at these initiatives, then opportunities will move into these rural areas.

As we work to help strengthen homeownership opportunities in Indian country, together we will continue to play a significant role in improving the quality of life for all families.

And with that, I will yield to our ranking member, Ms. Waters.

[The prepared statement of Hon. Robert W. Ney can be found on page 78 in the appendix.]

Ms. WATERS. Thank you very much, Mr. Chairman.

I would first like to thank you for responding to Congressman Renzi and Congressman Matheson, recognizing the need for such a hearing and getting it done. I have enjoyed working with you. I think that you have shown your concern for poor people and people of color and others who do not enjoy homeownership to the same degree that our majority of the population enjoys, and I'm very pleased that I have an opportunity to participate in this hearing today.

I'm very pleased to be here in Tuba City to participate in the first hearing on Native American housing issues ever held on Navajo land. And, again, Mr. Chairman, it's because of you and Congressman Renzi and Congress Matheson that we are here. I would

like to thank both of our staffs for the wonderful work that has been done in putting this visit together.

The tour that we were on this morning was awfully revealing, and I wish every member of Congress could see what we saw today. A special thanks to our staffers, Jeff Riley, who is our counsel; and Jaime Alisiga, who is our parliamentarian, along with the other staff members and all who have helped to work to put this tour together and this hearing together.

I am very concerned about the many barriers that Native Americans face when they seek to pursue homeownership. Whether it stems from Native American poverty or the heavy hand of bureaucracy at the Bureau of Indian Affairs when prospective homeowners seek BIA approvals, we cannot accept a process that produces so many fewer opportunities for Native Americans to own their homes and thereby build wealth than for others who live in America.

While I know that you sought the BIA's appearance at this hearing, Mr. Chairman, I'm disappointed that the Bureau of Indian Affairs is not represented on one of the panels today. This government agency, more than any other, needs to step up to the plate and work together with the tribes, HUD, RHS and the secondary market to formulate solutions to the housing problem on Native American lands.

While I am glad that we are discussing the significant housing challenges faced by Native Americans, I'm hopeful that we can all work together, the Congress, the administration, can work together to increase appropriations for assistive housing programs. And we all, I think, because of what we are learning, can take another look at any proposed budget cuts for the year 2005. I just think that the more we know, the less we can accept budget cuts.

I look forward to the insights of our witnesses, especially our tribal witnesses, as to how we can develop solutions that meet your needs for housing and homeownership opportunity while respecting your culture and your sovereignty.

Mr. Chairman, when land was taken from Native American tribes, the United States gave its solemn promise to protect the rights of the tribes to govern themselves and to provide for the health, education, and well-being of tribes. That commitment, the trust responsibility, is not a handout but a contract, a contract that unfortunately has been broken time and time again by our own government.

I believe that an essential element of the federal government's trust responsibility is that it must take the steps necessary to make homeownership opportunities as available to the members of tribes as they are to the rest of America's population. With a Native American homeownership rate of only about 33 percent as compared to an overall homeownership rate approaching somewhere around 68 percent, it's clear that much work will need to be done.

The Native American population is one of the fastest growing groups in the United States. Unfortunately, it is also one of the poorest segments. According to the U.S. Census Current Population Survey, the poverty rate of Native Americans in the late 1990s was about 26 percent while the national average was 12 percent. By any calculation, the increases in population are creating housing

needs which continue to far outpace the funding that we are providing.

While land and home are viewed as central to family life in the Navajo culture, the housing problems of the Navajo Nation are nonetheless particularly severe. The Navajo Nation is the largest reservation in the country. It covers over 16 million acres in three states. It is the size of West Virginia. There are 255,543 enrolled members of the tribe with about 180,000 living on tribal land. The median age, we understand, is about 22.5 years.

According to the 2000-2001 Comprehensive Economic Development Strategy Report from the Native Nation Office on Economic Development, 56.1 percent of Navajo people live below the poverty level, the per capital income is only about $6,212, and the unemployment rate is about 43.65 percent. Some 31 percent of the homes on the reservation lack complete plumbing, 60 percent lack telephone service, and about one-fifth of owner-occupied units on the reservation are mobile homes. The development of housing on the Navajo Nation is even more complicated than it is on other reservations, as 94 percent of Navajo land is tribal trust land, the most difficult type of land to develop.

Mr. Chairman, strong communities are built one home at a time. To strengthen reservation communities, we must provide safe, decent, affordable housing for all families living in them. Today, approximately 40 percent of all reservation housing is inadequate. Twenty percent do not have plumbing.

Mr. Chairman, the unmet housing needs in Indian country are simply enormous. HUD at one point estimated that current NAHASDA funding levels would only meet five percent of Native Americans' needs for housing. Without going much further, when we talk about NAHASDA funding or some of the proposed cuts, because of what we know and what we are learning, I think we are going to have to all work together to review any proposed cuts and, again, get the administration together with the Congress of the United States and do the right thing, just do what we need to do.

In closing, let me say to Congressman Renzi that your guidance on the tour this morning was absolutely fascinating and certainly appreciated. You know your district and you certainly understand these concerns, and I'm very appreciative for the time that you took to put this meeting together and the statistics, this data, that was gathered for me by my staff. I want to thank you, and Congressman Matheson, I want to thank you for working together with us. Mr. Renzi as you address these very complicated and tremendous problems that you're confronted with.

Thank you very much, Mr. Chairman.

[The prepared statement of Hon. Maxine Waters can be found on page 84 in the appendix.]

Chairman NEY. Thank you.

I also want to note, I, too, am disappointed the BIA is not here, and we will talk at a follow-up hearing, also. Since this is the first-ever hearing, I would prefer they be here on Indian tribal land, but we will follow up with them, also, in Washington.

The gentleman from Arizona, Mr. Renzi.

Mr. RENZI. Thank you very much.

Let me begin by thanking Chairman Ney, Ranking Member Waters, and our neighbor to the north, Congressman Matheson of Utah, for traveling this far, for taking the time. I also want to recognize the leaders of the Coconino County board of directors. Deb Hill is here. We have council delegates from the Navajo Nation, from the Apache Nation, from the Hopi Nation, our leaders, our chairmen, our presidents are here, which we will introduce them a little bit later. I thank all of you for finally coming together and helping me and working with us to pull off this field hearing which, as we have heard, is historic. It's long overdue.

I represent more Native Americans than anyone else in Congress. I've told President Shirley on many occasions it's hard for me to go home to Washington, to go home to my ranch, and call myself a congressman after I've been to Kaibito and seen the deplorable conditions up there. The first time I went up there, I saw six children living in a mud hut with their grandmother raising them, and they had dysentery. And, so, to be able to sit with myself and look at myself in my own mirror, I have to—and be a representative, I'm so very thankful for Chairman Ney who, when I went back to Washington after seeing that, on the floor at 2:00 o'clock in the morning, he committed that he would come out here and have this hearing this morning.

So, Chairman Ney, thank you for coming all the way out from Ohio and bringing a full-blown Congressional hearing to the Navajo Nation to address this issue. My district is over 60,000 square miles, larger than the State of Illinois. Our Speaker of the House is from Illinois, and I have a tendency to tell him my district is bigger than your State, I need more money, I need more help.

And it's my privilege to represent the Navajo. There are Hopi members within this district, the Zuni, the San Juan Paiute, the Tonto Apache, Yavapai Prescott tribe, the San Carlos and White Mountain Apache tribe. Strong, wonderful people who give and serve this nation and who deserve the very best, and they deserve our government to meet their treaty obligations. This is why we are here today.

Home ownership in America is many times referred to as an American dream, but how much of a reality is that dream here on native—in Indian country? We are learning that homeownership has a beneficial effect. Obviously, it helps marriages; obviously, it helps reduce crimes and helps with law enforcement in communities. But have you ever heard that there are studies that now show that math achievement and reading recognition scores are seven percent higher among young children and graduation rates are 13 percent higher among families who own their own home? Who would have thought that the fruits of homeownership actually go all the way down to test scores.

In addition, families can build equity in their homes. It allows them to borrow against the equity to get their kids to go to college, to be able to borrow against their homes and form their own small businesses. I'm able to become a U.S. Congressman because I borrowed a second mortgage on a home in Sierra Vista, Arizona, built a little insurance agency and then was able to go to law school and then run for Congress. And yet, unfortunately, homeownership

among Native American families is less than one-third. So one out of three Native American families actually own their own home.

And as we saw today, and as Ranking Member Waters pointed out, we saw children living in nothing more than wooden shacks without electricity, without modern sanitation and without pure water. We met a woman today whose water well is contaminated by oil. And so these are chronic problems where health officials are recognizing that these conditions are contributing to physical and mental defects in our children, and in particular in these areas.

In the first district of Arizona, we also have the problem with the Bennett Freeze. This is an area of 1.3 million acres in size which, due to conflicting claims, the federal government in 1966 imposed a ban on further construction. We have seriously never addressed the adverse conditions which are imposed by this wrong policy.

Now, I've got to give it to Chairman Taylor and the Honorable President Joe Shirley, because these two people are working together to seriously address the issue of the Bennett Freeze and we are coming very close to an agreement and a compact.

Finally, it is my hope that this first hearing will not only shed light on the issue, but out of it will come direct objectives and missions. We will have results, not just words, to talk about. I am going to follow up with a workshop. I'm going to ask Chairwoman Kathy Kitcheyen of the San Carlos Apache to host it. We will have a workshop. We will bring in private industry, the banking, financing, the credit people will come in and begin to address the ideas of how this first generation of Native American people can break through the impediments to homeownership, whether it be putting more counselors on the Navajo or the Hopi or the Apache Nations, so that the young people can enjoy homeownership, so the application process itself doesn't become a wall or an impediment to homeownership. So I'm looking forward to following up and asking your leadership with that workshop.

Mr. Chairman, if I have your permission, I would like to introduce a guest that we have. With us today is Mr. Eddie Cody of the Navajo Nation. He is a recent recipient of USDA home repair funds. Mr. Cody needed an addition to his home and we were able to help him through the USDA 504 Home Ownership Repair Program.

One of the things that's so important, real quick, about these programs is the Navajo people, the Hopi people, the Apache people don't want to send their elders down to Phoenix to nursing homes. And having the ability to add on additions to their homes allows them to bring the elders in for respite care and elder care in their homes rather than shipping them off to a nursing home. With this kind of a program we are able to fund additions onto the homes and reach out to our elders in our community.

So, with that, I want to thank the people of northern Arizona, particularly those who have taken their time away from their families to come here today.

Mr. Chairman, I yield back. Thank you.

Is Mr. Cody with us in the audience? Mr. Cody, thank you.

[The prepared statement of Hon. Rick Renzi can be found on page 83 in the appendix.]

Chairman NEY. Thank you.

Congressman Matheson from Utah, who borders the entire state of Arizona, and who spent time with Congressman Renzi today sharing their concern, and also some of the groups. Obviously, that border between the two states doesn't exist when it comes to Indian affairs.

Mr. MATHESON. Thank you very much, Mr. Chairman. Thanks for holding this hearing. I want to extend my thanks to you. I'm also really glad to join you and Ranking Member Waters and Congressman Renzi today.

This hearing is, as Congressman Renzi suggested, probably long overdue and I'm pleased we're here. Thank you for your leadership in making this happen. I really look forward to hearing testimony today from this distinguished group of witnesses.

I would especially like to, before I start with my statement, welcome my constituent, Mr. Mark Maryboy, delegate from Utah on the Navajo Nation Council. I believe we will hear from him on the third panel.

Many Native Americans continue to live in appalling housing conditions, and this is taking place at the same time while much of our nation is improving in this regard. Now, the Senate Committee on Indian Affairs has released a report that shows American Indian and Alaska Native populations live in housing that is often and justifiably compared to third world nations. One out of every five Indian homes lacks complete plumbing facilities and over 90,000 American Indians and Alaska Natives are homeless or underhoused.

I have had the opportunity to see firsthand the need for housing in Indian country when I visited the Utah portion of the Navajo Nation, which I represent in Congress, and also the tour we took this morning through parts of Arizona. I have met with families and individuals who have expressed their frustration with the process of building and owning a home on tribal lands. My constituents have raised a number of challenges to homeownership, including duplicative tribal and federal bureaucracy of obtaining homesite lease, trust status of tribal lands, lack of basic electrical and water delivery systems, lack of roads, lack of federal funding, and the difficulties these individuals face in trying to obtain conventional mortgages.

During my time on the Navajo Nation, I have had the opportunity to become acquainted with one particular grassroots nonprofit organization, Indigenous Community Enterprises. I have seen their approach to addressing the housing needs of the often-forgotten Navajo elders. Utilizing a NAHASDA subgrant and local resources, including, in the case of one I visited in Utah, the Monument Valley High School vocational students and Utah Navajo Trust Fund financial support, ICE constructed an elder hogan home that will be traditionally blessed this Friday, May 7th. The ICE elder hogan home incorporates the traditional octagon hogan in its design. The design respects the traditional space but adds the basic amenities of a modern kitchen and bathroom.

ICE employs a community-based approach of personal responsibility and capacity building to build hogan homes. Collaborating with local high schools, Navajo Nation entities, banks and community and family members, ICE seeks to address the underlying

problems to homeownership on the Navajo reservation by not only construction of a hogan home but by offering financial literacy, Individual Development Account savings programs, homeownership skills and credit counseling. Additionally, ICE uses small diameter timber from the regional forest thinning and is moving towards using straw bale products that can be manufactured from the Navajo Agriculture Products Industry.

Innovative ways to provide homes, the use of local resources, and ensuring that individuals have the necessary financial knowledge and skills can make homeownership a reality in Indian country. We can no longer look toward any government to simply provide homes. It will require innovative, collaborative efforts such as this to address the housing needs that I witnessed on the Navajo Nation. It will also require a deeper understanding of all parties involved of the true obstacles to adequate housing, be they a lack of infrastructure, supply, mortgage products, or incentives to build.

Again, Mr. Chairman, thank you for holding this important hearing today. I look forward to hearing from each panel to better my understanding of the issues that the federal government, tribal governments, housing entities and financial institutions face in addressing the housing shortage in Indian country. I look forward to hearing their recommendations for improving housing opportunities for Native Americans and I look forward to working with my colleagues to implement any necessary legislative solutions. Thank you very much.

[The prepared statement of Hon. Jim Matheson can be found on page 80 in the appendix.]

Chairman NEY. Thank you. I want to thank all the members for their testimony. And as far as the panel of witnesses, without objection, their written statements will be made part of the record and their five minutes will begin.

Let me introduce the panel and then we will get right to the testimony. First member of the panel is Kathy Kitcheyen, and she is the chairwoman of the San Carlos Apache. The San Carlos Apache Indian reservation encompasses more than 1.8 million acres in southeastern Arizona. Welcome.

Dallas Massey, Sr., the tribal chairman of the White Mountain Apache Tribe. Its 12,000 members reside on 1.6 million acres of its ancestral homeland on the Fort Apache Indian reservation about 200 miles northeast of Phoenix. Welcome to you.

And Joe Shirley, Jr. is the sixth President of the Navajo Nation. The nation has approximately 225,000 members and a land base of 7.5 million acres across New Mexico, Arizona and Utah. Welcome, President Shirley.

And Chief Chadwick Smith is the principal Chief of the Cherokee Nation of Oklahoma, based in Tahlequah. Am I close.

Mr. SMITH. Close. Tahlequah.

Chairman NEY. Tahlequah, Oklahoma. Welcome, Chief.

And Wayne Taylor, Jr. Is the chairman of the Hopi Tribe. The Hopi reservation covers 1.5 million acres in northeastern Arizona and is bound on all sides by the Navajo reservation. Welcome, Chairman Taylor.

We will start with Chairwoman Kitcheyen.

STATEMENT OF KATHLEEN KITCHEYEN, CHAIRWOMAN, SAN CARLOS APACHE

Ms. KITCHEYEN. Good afternoon, Chairman Ney, Ranking Member Waters. You better reset that because I think I lost 30 seconds.

Chairman NEY. That's right. You speak up.

Ms. KITCHEYEN. Good afternoon, Mr. Ney, Chairman; Miss Waters, Ranking Member; Mr. Matheson from Utah, and also our very own Rick Renzi, who has a very passion about his work. And we thank you for coming and being able to organize this, Mr. Renzi. Thank you very much.

As you've just heard, my name is Kathy Kitcheyen. I'm the chairwoman of the San Carlos Apache Tribe based in San Carlos, Arizona. I am very honored to be here to testify today.

As you've already mentioned, it's an historic occasion. It's been a long time coming. We have been dealing with the United States government for over 500 years and never have we seen people of your caliber come out to our part of the country.

So I thank you very much for your compassion, for your humility, and for your courage. Thank you. Today, I am joined by Robert Olivar, who is on the council and is the chairman of our housing authority. And also there is a delegation, Ronald Boni, who is executive director of housing; Opal Kees, staff person; Chuck Hills, staff person; and also Debbie Ho as well.

Also in the—well, before I begin, again, I would like to thank you for addressing the needs of housing in Indian country. What you saw today is probably what you see on other Indian reservations as well. We appreciate the dedication that you have to this serious issue. I'm sure it's not easy being far away from Washington D.C. And all the Starbucks.

To better understand the housing needs of my tribe, it is helpful to know our history. The aboriginal territory of the Apache Nation included the western part of Texas, Arizona, New Mexico, and the country of Mexico as well. Pursuant to the Treaty of Santa Fe of 1852, lands were set aside for a permanent Apache tribal homeland and the United States promised to provide for the humane needs of the Apache people.

The San Carlos reservation was established in 1871. Through the concentration policies of the United States, various bands of the Apaches were forcibly moved to the San Carlos reservation. Throughout history, the United States diminished the size of the reservation several times due to the discovery of silver, copper, coal, and water. The reservation now spans three Arizona counties: Gila, Graham and Pinal. The reservation currently has a land base of 1.8 million acres. It's mostly rural and lacks basic infrastructure in many parts. The total population is 12,532 members.

A majority of our members live on the reservation, 84 percent of them. While we have worked hard to develop our reservation economy, there is still a high unemployment rate of 76 percent. We suffer from a poverty level of 77 percent. The tribe has designated the housing authority to operate and administer the tribe's housing program. We have two critical housing needs, a severe housing shortage and severely inadequate utility infrastructure. These inadequacies create unsafe and unsanitary conditions.

This situation is simply unacceptable in this great country of ours. Let me be clear that the San Carlos Apache Tribe supports our troops in Iraq and other parts of the world. The Apaches have many decorated war veterans that have served with distinction. In fact, the San Carlos Housing Authority has an employee named Percy Via, an army reservist, who has worked for them for 20 years. He was called to duty and was part of the first wave of army soldiers to invade Iraq. He just returned home three weeks ago, and we are very proud of him.

However, I wonder about some of the priorities of the United States when Indian communities, my community, the San Carlos Apache reservation, was never built the way it should have been, when our needs were never addressed the way it should have been; why we have overcrowded conditions when there are people, disabled people, living without the proper ramp, without proper facilities in the bathroom.

When I hear about the billions of dollars the United States is spending to rebuild Iraq, homes and infrastructures for them, I wonder why the United States will help them but put the issues of the first Americans aside. I cannot stress enough the dire housing shortage on the reservation. There are approximately 2,400 families on the reservation in need of homes. Thirty-nine percent of families live in substandard housing and 40 percent of families live in overcrowded conditions.

We have calculated that it would take building 125 homes a year for ten years to meet the housing needs of tribal members. Also, 94 percent of our families are considered low income. Mr. Olivar, the chairman of our housing board, recently stated that he receives at least six visits a day from families who have no place to go and are in desperate need of housing. It is heartbreaking to tell these families that the waiting list is too long and that there are no homes for them. I know other council members meet with families with the same plights as often as Mr. Olivar. I have a couple pictures over here to my right that depict a couple of the homes on the reservation, and there are many more like them.

One area that needs improvement is the environmental review process required for HUD's Indian Housing Block Grants. The tribe is frustrated with the long amount of time that it takes for HUD to approve these environmental reviews. The tribe submitted environmental reviews for two of its housing projects over a year ago and there has been no action taken by HUD. As discussed above, we have tribal members who are homeless or in need of serious rehabilitation. These delays, therefore, take a huge and sometimes irreversible toll on our people. We recommend that HUD be given more resources to handle the huge loads and we also recommend that HUD streamline and expedite the process.

And tied to our housing needs are our utility infrastructure. The tribe's utility infrastructure is sorely inadequate. Without improved infrastructure, it will be difficult to provide decent housing. Specifically, our sewage treatment systems are in such bad shape that they are causing a health risk to nearby communities as well. The hydraulic capacity of our existing sewage treatment facilities have been exceeded by approximately 16 percent. Due to the lack of

funds, the existing sewer ponds are filling with too much sludge and the berms have been deteriorated.

In an attempt to address our sewage system problems, the tribe did seek funding from USDA's Rural Housing Service a few years ago. However, the Rural Housing Service did not have enough funding to allow us to fix our sewage system problems.

The tribe's current water storage facilities are also inadequate. The storage tanks are too small and do not meet the tribe's demand by 24 percent. In order to provide and build more homes, adequate storage and distribution systems need to be installed. Unfortunately, the tribe does not have the funding to upgrade or build the required systems to meet demands. We would certainly appreciate your assistance on these matters.

As a final point, I was in attendance at the signing of an executive order by President Bush related to Indian education of the No Child Left Behind Act last week. Rod Page, Secretary of Education, and Gale Norton, Secretary of Interior, are to spearhead the interagency Indian Education Groups.

The simple fact is that if our children are to be successful, they need adequate housing. And with that, I rest my case. Thank you for the opportunity to testify, and please come again.

Chairman NEY. Thank you very much. I appreciate your testimony.

[The prepared statement of Kathleen Kitchen can be found on page 115 in the appendix.]

Chairman NEY. And next, I introduced him as Chairman Massey, but actually Vice Chairman, Johnny Winfield, filling in for Chairman Massey.

STATEMENT OF JOHNNY WINFIELD, VICE CHAIRMAN, WHITE MOUNTAIN APACHE TRIBE; ACCOMPANIED BY ANEVA YAZZIE, MANAGEMENT CONSULTANT, WHITE MOUNTAIN APACHE HOUSING AUTHORITY

Mr. WINFIELD. Good afternoon. My name is Johnny Winfield. I represent the White Mountain Apache Tribe as the vice chairman. I would like to welcome each and every one of you, the Subcommittee on Housing and Community Development, to the Navajo Nation within the State of Arizona within Indian country.

I'm here on behalf of the White Mountain tribal chairman, Dallas Massey, who is unable to make it due to other commitment, so I'm going to follow through with what he brought to my attention.

We are knowledgeable of new housing legislation, NAHASDA, that was enacted in 1996. Under that new federal housing program for Native Americans, we had designated our housing authority, the White Mountain Apache Tribal Authority, as a Tribal Designated Housing Entity and we have been very successful in carrying out our effort of housing opportunity for our tribal members. I believe we are at the forefront of tribes across the country to take full advantage of leveraging opportunity with willing financial partners that have opened under this new Indian housing law.

We have accomplished a lot of first ever initiatives, such as:

One, issuing a tax exempt bond in the amount of $25 million to build 250 homes, which has increased to 317 due to a cost savings measure in our construction method. This bond issuance was only

possible through the collateralization of HUD's Section 184 loan program on each of the construction mortgage loans executed with our lending institution, Bank One. We call this lending purchase mortgage-based homeownership program Apache Dawn.

Two, since the creation of this housing authority back in 1963, for the first time under the Apache Dawn, we used our own tribal resource for material, Fort Apache Timber Company, Fort Apache Timber Company Home Center, White Mountain Apache Tribe Public Works and contractors utilizing our tribal employees in significant numbers for the construction of homes.

Item three, we were also the first tribe in Arizona to receive a low interest loan to address our infrastructure needs from the Arizona Water Infrastructure Financial Authority, WIFA, in the amount of $5 million. This was a true tri-governmental relationship between our tribes, state and federal agencies. WIFA had to qualify as an approved lender under HUD's Title VI Loan Guarantee Program in order to minimize this risk and make the loan possible for our tribe.

Since the creation of the housing department under the State of Arizona by our own good friend, Janet Napolitano, who is the first governor who has shown a true concern and is proactive in addressing our tribal housing situation in the State of Arizona, we were the first tribe to partner with their office in addressing our badly needed rehab needs for our housing units through both their tax credit and state housing fund programs. We are fortunate to have a very strong state government relationship in all our housing endeavors.

In addition to these first ever initiatives, the White Mountain Apache Housing Authority has aggressively applied for HUD and other outside grant sources that have enabled a total of over $80 million to be infused into our tribal communities since 1998. This is—this has proved that the new Indian housing law can work for tribes with a capable and committed team on the housing staff, expert consultants combined with strong tribal and community support.

We have also received strong support from both our local and national HUD office. As stated above, we have had a very successful relationship with Phoenix, Denver, and headquarter administration of the Native American Housing Program. The new Indian housing law allows the opportunity to work with other funding agencies to address rehab and/or new construction needs, including costly offsite infrastructure systems.

In working with other agencies, we have encountered several obstacles in our attempt to increase the assistance needed for our tribal members. This includes:

One, partnership with the Federal Home Loan Bank's Affordable Housing Program. We have encountered several program differences for delivery assistance to Native American communities. This includes the unique need to address the trust land issue in the execution of regulatory agreements, the low income threshold requirement under the NAHASDA, unique BIA land issues, and risk issues for future banking relationships.

In partner with the U.S. Department of Health and Human Service's Indian Health Service technical arm, we have encountered one

major regulatory prohibition that hinders assistance for tribal members. The tribes are prohibited from obtaining assistance for homes if the homes are receiving assistance from HUD. Since the resources for funding are both federal assistance, IHS statute and program regulation restrictions should be removed to allow its use in a coordinating manner at the local level or reallocate such funds to a national level from IHS to HUD to address infrastructure needs from one federal funding source.

Even through this is a sensitive issue to those tribes that are not obligated to their funds in a timely fashion and possible to be subject to recapture the funds and returned to the U.S. Treasury; rather, a mechanized need to be put in place to reallocate those funds to tribes that have proven track record of effective address of their homes need to be timely manner. While this may not be uniformly addressed, each tribe's respective needs it will be addressed in the overall backlog housing needs for the tribes in aggregate from the Congressional point of view and all funding would still be directed at the address of the vast problem rather than returning to the general fund back to the Treasury, not addressing the housing problem.

A means of stable employment is necessary for tribal members in order to make housing payables. This leads to the need for the economic development for sustaining tribal communities and to become truly self-determined. Therefore, the program regulations should be able to allow economic development as an eligible activity as it relates to affordable homes.

This should not be considered an exhaustive list but are those that we have seen as obstacles and as experienced by the White Mountain Apache Tribal Housing Authority that needs immediate attention by responsible federal officials for the sake of all tribes. We stand ready to address and work cooperatively towards working solutions to enable all tribes to better address and solve their housing need.

We have used the USDA Agriculture Rural Development Program to receive combination grant and loan funding to address our infrastructure needs. These funds are supplemental to NAHASDA and WIFA funds as described above to provide the construction of regional water and wastewater treatment facility at Hondah. This is greatly increasing in capacity, accommodating the planned expanding of our homes at Hondah home sites and Apache Dawn home funding under NAHASDA. The White Mountain Apache Tribal Housing Authority also plans to utilize the USDA's Rural Housing Service, rural development housing service in the near future to expand the home assistance serving our tribe.

All of our land is trust land. With the assistance of the federal loan guaranteed programs offered under HUD Section 184, Title VI provide NAHASDA, we are able to bridge the housing need for both subsidized and mortgage-based programs with approval of BIA land leases for two consecutive period of 25 years for our tribal members. The maximum lease period of 50 years specified in the NAHASDA statute needs to be changed to allow for even longer period of time.

Steps that can be taken to increase private market initiative is to maintain and to increase the level of federal loan authority

under the two HUD loan grant guarantee programs that have worked successfully for our tribe, namely the Section 184, Title VI program. Eligibility criteria should also be expanded to fill the pocket of needs of those families that are not low income which is a growing segment of the tribal population and cannot secure mortgage financing on trust land without some form of many federal loan guarantee. Education——

Chairman NEY. I'm sorry. Not to interrupt you, but time has expired.

Mr. WINFIELD. Thank you.

Chairman NEY. Wrap it up.

Mr. WINFIELD. Wrap it up?

Chairman NEY. Yes.

Mr. WINFIELD. Education about these programs should also continue to both tribes and the private financial sector on how these programs work. Heavy education should also be continued for Native American on benefits of true homeownership as well as financial literate education. And this is the statement that was brought to my attention from the tribal chairman. Thank you very much.

Chairman NEY. Thank you. We will have the rest of it in the record.

[The prepared statement of Johnny Winfield can be found on page 199 in the appendix.]

Chairman NEY. Again, I'm just trying to hold it to five minutes so we can get some questions in. Thank you. President Shirley.

STATEMENT OF JOE SHIRLEY, JR., PRESIDENT, NAVAJO NATION ACCOMPANIED BY CHESTER CARL, CHIEF EXECUTIVE OFFICER, NAVAJO HOUSING AUTHORITY

Mr. SHIRLEY. Thank you, Mr. Chairman, members of the committee.

I feel very honored to share your presence with us here on Navajo land and I want to welcome you. And thank you, Congressman Renzi, for doing everything you could to make this hearing possible. You have done much and I'm looking forward to continue to work with you.

Mr. RENZI. Thank you, Mr. President.

Mr. SHIRLEY. With me here today is Chester Carl, who will help answer questions maybe afterwards.

Gentlemen, Ms. Waters, I'm Joe Shirley, Jr., President of the Navajo Nation. There are a myriad of challenges facing us related to housing, related to Navajos, sovereign Native Americans, but I want to zero in on a particular issue at this time because of the limited time and will share the rest with you in written testimony.

The Navajo Nation and the Navajo Housing Authority are deeply concerned that a recent HUD decision will reduce Indian Housing Block Grants for the Navajo Housing Authority by over $5 million. HUD's policy determination, made without consulting with Indian tribes as mandated by federal law, subverts the letter, intent and spirit of NAHASDA and will prevent the Navajo Nation and many other tribal governments on Indian reservations throughout the country from serving the critical housing needs of our people.

These drastic reductions are caused by HUD's decision to use for the first time the so-called multi-race census data in the Indian

Housing Block Grant formula. As you know, the 2000 census allowed those responding to questions on race and ethnicity to check one or more of the listed race categories. In 1990, when only a single race category could be selected, almost two million people checked the American Indian and Alaskan Native category. Yet, in 2000, over four million identified themselves either as American Indian and Alaskan Native alone or as American Indian and Alaskan Native in combination with one or more other races. This amounts to an incredible 110 percent American Indian and Alaskan Native population growth rate compared to the U.S. Population growth rate of only 13 percent.

In 2000, those who identified themselves as American Indian and Alaskan Native alone was 2.5 million, a figure much more realistic and closer to the population growth rate nationally. Moreover, studies have shown that a substantial majority of those who indicated they are American Indian and Alaskan Native and another race would have selected a non-American Indian and Alaskan Native race if they had been asked to designate only one category. Yet, despite the fact that American Indian and Alaskan Native alone data more accurately reflects the true Indian population under the NAHASDA definition of Indian as any person who is a member of an Indian tribe, HUD has nevertheless mandated the use of the multi-race data in the Indian Housing Block Grants formula.

When the multi-race data is plugged into that formula, large sums of housing funds are shifted away from areas with populations that self-identify as American Indian and Alaskan Native alone, which tend to be reservation lands, to areas of populations that self-identified as American Indian and Alaskan Native in combination with other races, which tend to be more urbanized, non-reservation areas.

Although Congress intended NAHASDA to help tribes and their members improve their housing ambitions and socioeconomic status, HUD's decision disregards the bedrock principle of self-determination and self-governance of the tribe's rights to determine its members.

HUD's own preliminary estimates using multi-race data reveal that with a reduction of over $5 million, the Navajo Nation will suffer the largest single cuts in funding, vital funds that will be taken away from Navajo families desperately in need of basic housing.

Other tribes located right here in Arizona will also face severe reductions. For example, the Tohono O'Odham tribe will lose upwards of $743 million, an 11 percent reduction. The Hopi tribe will lose over $613 million, a 17 percent reduction. The Salt River Pima will lose over $738 million, a 24 percent reduction. And the Chochiti will lose $111,820, a 35 percent reduction.

Congress must not allow this untenable and unfair result to stand. We respectfully request that HUD use tribal enrollment figures as the best indication of who are Indian under, and entitled to the benefits of, NAHASDA or, in the alternative, use the 2000 Census American Indian and Alaskan Native alone count as most compliant within the NAHASDA definition of Indian and most reflective of NAHASDA's intents and purposes.

I might just add also that we are trying our best, Chairman Ney, to defrost the Bennett Freeze. I think you've seen a couple houses in that area, and it's very undeveloped. We had to go through a lot of red tape and bureaucracy to get in any infrastructure. Hopefully, in the near future, we will overcome that. And if we do that, we will need all the help we can get putting in infrastructure and housing and the like. Thank you very much.

Chairman NEY. Thank you, President Shirley.

[The prepared statement of Joe Shirley Jr. can be found on page 168 in the appendix.]

Chairman NEY. We will move on to Chief Smith.

STATEMENT OF CHADWICK SMITH, PRINCIPAL CHIEF, CHEROKEE NATION OF OKLAHOMA

Mr. SMITH. Good afternoon, Chairman, and honorable members of the committee. My name is Chad Smith, and I am the principal chief of the Cherokee Nation. We are located in eastern Oklahoma.

One of the highlights of being principal chief is being able to visit a remote location hidden in the hills of eastern Oklahoma. Even before you are able to see what is happening, you can hear hammering, sawing and humming of generators, all interspersed with the sound of the Cherokee language. You hear the laughter of children playing in the nearby woods. These are sounds of a house being built in a Cherokee community by a Cherokee community.

This is a pilot project. Houses are being built with materials purchased by Cherokee Nation funds using NAHASDA. Community members provide the labor. Instruction and supervision is provided by the Cherokee Nation through USDA funds as well as tribal funds. A flexible, stable funding source such as NAHASDA allows the Cherokee Nation to determine what works best for our members. It is very important to put our common members in a situation where they can rebuild their communities, acquire new capacities and expand their capabilities to help themselves.

The leadership of the Cherokee Nation can, quote, make ourselves useful, by thinking strategically about how to use our resources in a manner that enhances opportunities for tribal citizens to help themselves. By thinking in a broader context, the Cherokee Nation seeks to build people, not just physical structures.

Let me share with you one example. One of our self-help participants is a full blood Cherokee in his mid 40s who has caught chickens at a processing plant all of his life. This is back-breaking work that is demanding and often physically debilitating through the years. This man often puts eight to ten hours of work in each day catching chickens, then he helps build houses in Cherokee communities for four to six hours on the same day. He just learned how to use a tape measure and thinks he may want to build houses for a living. He wants to volunteer to assist and to teach other Cherokees what he has learned.

The Cherokee Nation would like to see more instances of this to make our limited funding go further and create an epidemic of this type of excitement and activity and self-help.

The Cherokee Nation has used NAHASDA in many other strategic ways to promote capacity building and housing opportunities. We fund Individual Development Accounts, or IDAs, that require

matching the private savings of individuals dollar for dollar. We also provide materials only projects for low income individuals who need to rehabilitate their privately-owned house. We have trained and certified staff to eliminate lead-based hazards, lead-based paint hazards in the housing of low income Indians. We are utilizing a Rural Housing and Economic Development grant to establish a structural insulated panel, or SIT panel, manufacturing facility. All these initiatives and others will allow the Cherokee Nation to house more of the neediest.

The Cherokee Nation has leveraged several resources, such as the Low Income Housing Tax Credit, to build several projects and we are the single largest user of the loan guarantees under Title VI of NAHASDA. We plan to aggressively market not only Section 184 loan guarantees, but also USDA's 502 program to our citizens.

There are some issues that, if resolved, would better enable the Cherokee Nation to strategically address the housing needs of our members. These issues include improving or coordinating processes to allocate Indian Health Service Sanitation Facilities Construction funding; standardizing the environmental, or NEPA, process across federal agencies, and streamlining the residential leasing procedures through the Bureau of Indian Affairs. Stable, consistent funding and processes would allow us to more strategically use the very limited resources available.

Another example of more effective utilization of resources is the Indian Community Block Grant. We could better plan housing, infrastructure development and economic opportunities if we received funding through an allocation formula like large cities do under the public CDBG or, for that matter, NAHASDA.

I would like to also comment on NAHASDA formal allocation for funding and the use of the U.S. Census. The Cherokee Nation citizens and other Indians in our area are undercounted by whatever census classification or count, whether it be by single race or multiple race. However, Census information at this point is the only available information collected systematically in which we have confidence and the use of which has been determined through the negotiated rulemaking between tribes and the Department of Housing and Urban Development. The use of census information should be used as long as it approximates tribal citizenship. We believe that any other use of Census classifications, such as a restriction to only using a single race, becomes purely a race-based policy rather than a proxy or an index for citizenship in federally recognized tribes when the effect is to artificially underestimate the amounts of tribal citizens in an area. The use of the multiple-race classification from the U.S. Census results in a more accurate estimate of the tribal citizens in our area, even though that number itself is undercounted.

We support any system—I want to reiterate this—we support any system that is verifiable and reliable that best reflects the number of citizens of federally recognized tribes and Alaska Natives for specific formula areas.

In closing, I would like to express our appreciation for the contribution of Congress, the attention of this committee. What you have done for the Cherokee Nation and other Indian tribes and your support of Indian Nation programs and self-government and

its self-determination are very valuable for our continued existence and our efforts to regain the dignity and status that we once historically held. Thank you very much.

Chairman NEY. Thank you, Chief.

[The prepared statement of Chadwick Smith can be found on page 174 in the appendix.]

Chairman NEY. And Chairman Taylor.

STATEMENT OF WAYNE TAYLOR, JR., CHAIRMAN, HOPI TRIBE

Mr. TAYLOR. Chairman Ney, honorable members of the subcommittee, welcome, and thank you so much for coming to visit our homeland. My name is Wayne Taylor, Jr., and I am Chairman of the Hopi Tribe.

My remarks today focus on the need to increase the opportunities for Hopi people to live in quality and affordable housing and to improve our participation under NAHASDA. In addition, I will offer my thoughts on some of the critical legislative and policy issues related to housing that require the attention of our Congressional delegation and Congress generally.

By way of background, the Hopi people and their ancestors have lived in northern Arizona and the southwest in general for many thousands of years. Our ancestors' once thriving but now abandoned villages can be found throughout portions of Arizona, New Mexico, Colorado and Utah. In 1882, the United States set aside a small portion of our former ancestral home as a reservation intended as a permanent home and abiding place for Hopi. The Hopi village of Oraibi was a bustling community many centuries before the coming of the European explorers and today is recognized as the oldest continuously inhabited community in North America.

Our reservation, some 1.6 million acres of land, is situated in the middle of the Arizona portion of the Navajo Reservation. The 12 villages of the Hopi reservation are within a two-hour drive of the non-Indian border towns of Flagstaff, Winslow and Holbrook. We are cross-town neighbors to the Navajo community of Tuba City. According to the most recent population data, the Hopi tribe has an on-reservation population of 8,000 tribal members with another 4,000 members living off the reservation. The average household income for families in the Hopi communities is $26,553, which is almost six thousand, almost seven thousand less than the income for neighboring non-Indian communities in Coconino and Navajo counties.

The Hopi have a long history of housing development. As settled village dwellers, the Hopi built and maintained community development projects throughout thousands of years of their history preceding the founding of the United States. Hopi communities were designed and constructed not simply as shelters from the elements, but rather as places of safety and social cohesion. The Hopi village was a place where individual families could live comfortably, practice their agrarian economy, attend to their religious obligations and build a society that took care of their community members and offered them a clear direction toward future security and prosperity.

Anyone visiting the Hopi villages today will see Hopi homes built by Hopi hands that have been passed down through family and

clan inheritance for many hundreds of years. Generations of Hopi people have literally been born, raised, and passed on in Hopi housing built by their ancestors.

Unfortunately, our ability to keep pace with the need of new housing through modern housing programs has not come close to matching the ingenuity and adaptability of our ancestors. Hopi people simply do not have sufficient quality and affordable housing to meet existing and projected needs. Housing is currently one of the greatest challenges facing the Hopi people. Housing development faces a number of challenges. Finding suitable locations for new housing can be extremely difficult because of our system of village and clan land holdings that restrict the building of new homes in close proximity to the historic villages and reserves much of the land for agriculture and religious practices. Of course, this is a matter within the political control of the Hopi Tribe and their villages and will have to be worked out according to those political processes.

Our solution is to move new housing into areas not subject to such restrictions. However, in such locations, we face the difficulty of developing basic infrastructure, including water, sewer, electricity and roads and the lack of funds for construction activity. As our Hopi population grows and the demand for housing increases, we fear these problems will only get worse.

The statistics related to affordable housing for the Hopi Tribe are disturbing and discouraging. According to the recent surveys conducted by the Hopi Tribal Housing Authority, there are 2,485 families living on the Hopi Reservation, of which 2,043 are low income; 1,215 Hopi families live in substandard housing units, and nearly 691 families live in overcrowded conditions, usually sharing the same household with other family members.

The same survey shows that 1,116 owner-occupied units and 137 renter-occupied units under the HUD housing program, for total units of 1,253. The statistics for these 1,253 units are startling but not surprising. Of the 1,253 units, 436 are in standard condition; 337 require minor rehabilitation; 439 require substantial rehabilitation, 29 are dilapidated and require replacement; and ten are of unknown structural condition. Financial assistance is badly needed to repair and rehabilitate 773 units and to rebuild 29 new units.

The above statistics apply only to the Housing Authority Indian Housing Plan for 2004. How am I doing on time?

Mr. RENZI. Wrap it up.

Mr. TAYLOR. Okay. What are we doing about the current situation? A number of years ago, the Hopi Tribal Council approved a comprehensive values plan, and within this plan designed five new community sites to be located on the Hopi partition lands. One such site is the Tawaovi community. The new community of Tawaovi is located 15 miles north of Second Mesa along BIA Route 4, also know as Turquoise Trail. The Tawaovi community provides for mixed-use housing, commercial and industrial development, and other government facilities. We are working with the local housing authority to plan new housing for these communities. We need Congressional support to make the plans a reality.

I have some recommended legislative and policy matters that we would like to have your subcommittee in Congress assist us with.

They have been generally addressed already, so I will leave that as part of my written record.

Chairman NEY. It will be accepted without objection.

Mr. TAYLOR. Thank you.

Chairman NEY. Thank you, Chairman.

[The prepared statement of Wayne Taylor Jr., can be found on page 193 in the appendix.]

Chairman NEY. I want to thank all of the panelists.

Let me ask our ranking member, Ms. Waters, I'd like to ask a question about something we saw today. It's a generic question on behalf of us.

I saw a hogan, and there was a power line. I could visibly see that power line, and the line was there, but it can't be connected. And it's due to a——

Mr. RENZI. Arizona Public Service.

Chairman NEY. Arizona Public Service, and then I think the Bennett Freeze. So the question I want to ask is, in my mind, what benefit is it when you can stand and see that power line and not be hooked up? It's not a matter of money, in my opinion. Let's say it costs five hundred dollars to hook it up. We say here is the five hundred, but it can't be hooked up because of the Bennett Freeze? Is that correct? Anybody like to answer that?

Mr. TAYLOR. Mr. Chairman, Wayne Taylor, Hopi Tribe Chairman.

What we are dealing with in certain parts of this area here are what is called the Bennett Freeze areas. This is currently in litigation and has been the subject of many court battles. It has been appealed to the Ninth Circuit and has been remanded now to the lower district court in Phoenix and we are awaiting some kind of a decision by the judge in that case. Unfortunately, that has been there in the courts for quite a long period of time.

I would like to commend the leadership for the Navajo Nation. Starting with President Kelsey Begay, we began to have negotiations to try to settle this land issue so that we can unfreeze the so-called Bennett Freeze. When President Joe Shirley became the next President, we continued these mediations, and I am happy to report that we have now reached an agreement in principle on a compact that we will now be taking to Washington D.C. Where we hope that the Department of Interior would also sign off on this particular compact.

We then will have a product that we can take to our respective tribal councils for ratification. This will address the unfortunate delays in getting people to get serviced.

Chairman NEY. So does the Bennett Freeze prevent that power line from being hooked up today, or is it an arrangement you have to make between the two nations or between the two tribes?

Mr. TAYLOR. What happens is any kind of development has to get—of course, it begins with the Navajo Nation. They go through their review process. Once that's concluded, then it goes to the Hopi Tribe because it's those lands that we have litigation over so we have to concur on these developments. And the development has to—the permit for these developments have to come through the Hopi Tribe. We have to concur before development can begin.

And there is a process in place for that, and I would say that 98 percent of those requests that come to the Hopi Tribe are approved. It's just that it's a lengthy process.

Chairman NEY. One thing that confused me. We reviewed the Bennett Freeze, which in 1961, Bennett was in Congress. But, for example, this was a unit that—ICE did a real good job of building this, you know, and helping the family. But if we are talking about development, that was built so—the actual home was built, so it's hard for me to understand why the line couldn't be hooked up because the actual home was built. Is there also a problem with Arizona Public, or power supplies? Is that another side? Let me try to make it more clear. I'm probably not making it clear enough.

If it's a matter of development, why could the actual home be built but why couldn't the line come 20 feet into the home? If it's a matter of development of the Bennett Freeze, then the home shouldn't have been built. I'm just trying to rationalize it. I'm not blaming anybody, I'm just trying to rationalize it in my mind.

Mr. SHIRLEY. Chairman, members of the committee. One of the things that also is going on besides what Chairman Taylor has alluded to, the bureaucracy in getting power to homes because of the Bennett Freeze, there is also jurisdiction regarding power companies. We have our own.

The Navajo Nation has its——

Chairman NEY. The jurisdiction of what?

Mr. SHIRLEY. Power companies.

Chairman NEY. Power companies?

Mr. SHIRLEY. Yes. Arizona Public Service is an entity that's outside Navajo land. The Navajo Tribal Utility Authority is the tribe's own power source. It hooks up electricity, power, water, sewer to homes. So, because of the Bennett Freeze, we have to also negotiate on the cost sometimes. And sometimes APS could come in and sometimes NTUA could come in for whatever reason. So that's one of the reasons why.

Chairman NEY. Thank you. My time is up. I will yield to our ranking member.

Ms. WATERS. Thank you very much, Mr. Chairman.

I would like to thank our panelists for being here today. I'm particularly pleased to see and meet the leadership of not only the Navajo, but the Hopi.

And I am looking for some guidance. I need you to tell this panel what your priority suggestions would be for helping to remove some of the barriers, whether that is with lending agencies, Congress cutbacks, administration cutbacks, or with tribal court cases or the Bennett Freeze that's been talked about.

Now, as I understand—let me just backtrack a little bit. As I understand, it appears that the courts—the Bennett Freeze settlement is now in the hands of the court.

Mr. TAYLOR. Correct.

Ms. WATERS. But you also indicated that the tribes were getting together in addition to what the court is doing.

Should you reach an agreement or settlement prior to the court finishing its work, would that take precedence over the courts and then the court would no longer have to be involved in this decision? Mr. Taylor

Mr. SHIRLEY. It is my understanding, Miss Waters, the Hopi Nation, working with the Navajo Nation, is trying to come to an agreement where we are going to put an end to the litigation. And once we reach agreement, hopefully, for everybody, that will happen. And then from there, infrastructure and housing will start going into Bennett Freeze.

Ms. WATERS. So you're saying that a settlement between the tribes would supersede the court work that's being done now so you may not have to wait for another year or six months on a court decision? Is that correct?

Mr. TAYLOR. Congresswoman Waters, the case is in the lower district court, as I mentioned, and we have been waiting for the judge to make some kind of a ruling on this particular case, but that, unfortunately, has not been forthcoming for quite a long time.

So that was what prompted the two tribes to begin to talk. And what we have done is we have asked the courts to assist us in this effort, and they have assigned one of the judges from the Ninth Circuit court and so that judge is helping to mediate between the two parties.

So once the—all the parties have signed on to the agreement, then that will end this case.

Ms. WATERS. That's great and that's very encouraging. We visited a location today where an elderly woman was living in a very substandard housing situation because her home had burned down and she could not replace it because of the dispute. So this would be wonderful if the tribes can reach an agreement, and we would certainly encourage, encourage, encourage you to do that. And I suppose once that's done, that would help to move the issues of housing development in some very profound ways.

If I have time, Mr. Chairman, the next thing I want to know is what can we do, what do you suggest that we do with the financial services community? What would you say to banks and financial institutions about providing loans and mortgages to families when they say that they can't do it or it's very difficult for them to do it because there's a lack of ownership by individual families to own trust land and there is not a lot of income by Indian families for collateral? Do you have any suggestions or any ideas about what we can do? What could we say to those financial institutions?

Mr. SHIRLEY. Chairman and Ms. Waters, let me defer that question to my technical person, who is also the chief executive officer of the Navajo Housing Authority, Chester Carl, to help me answer that question.

Ms. WATERS. Yes. Please identify yourself for the record.

Mr. CARL. Thank you very much, Congresswoman Waters and Chairman Ney, and, of course, Congressman Renzi and Congressman Matheson. Thank you for the opportunity to ask these questions.

One of the barriers that we see is related to possibly the enforcement of the Community Reinvestment Act. Currently, on the Navajo Nation, we only have five banking facilities, while on the streets of Washington D.C., you'll find five banks in one block. And because of the lack of investments, Navajo opportunities of every American dream to establish homeownership is not possible.

So, because of those challenges that we face, a lot of times banks are able to post an acceptable score in using other neighboring communities on how they invest their money in Indian country. So as a committee empowered with that authority, we would like for you to look at how community reinvestment works in Indian country.

The second part of that is there's been a lot of discussion on Section 184. When Section 184 was implemented, it was a dream to allow opportunities to Native Americans who were not at the acceptable level for conventional loan programming. Somewhere along the way through the bureaucratic process, it became where you almost had to be goldplated in order to get a loan through the Section 184 program. When we started the program, the approval was done at the field offices of the Native American program, and eventually that got centralized to the national office and it became problematic, so it hasn't been at a level where it should be. So the recommendation would be possibly move it back down to the field offices because we work with those offices hand-in-hand and one-on-one, and we will try to work with those programs as well.

The third part of that is the BIA. You noted that the BIA is not at the table. Part of that is a recommendation for procedures, and there is a commission that's been established called the Land Title Commission by Congress, and if we could fast track that and have that commission go into effect so we can start to get some of these issues resolved, then, through sovereign rights of tribes, to establish a title plan with the tribe and BIA for those functions.

Ms. WATERS. Thank you very much. Those are very concrete recommendations and I'm sure that our members of Congress representing the area can move on those kinds of recommendations to remove some of these barriers. And of course, if they don't, their friends will nudge them. All right. Thank you.

Chairman NEY. Thank you. Gentleman from Arizona, Mr. Renzi.

Mr. RENZI. Thank you, Mr. Chairman.

Chairman Kitcheyen, in your testimony, you spoke about infrastructure needs. You also mentioned the fact that if we build 125 homes a year for the next ten years, we would only begin to meet the current housing need.

What is the number one impediment at San Carlos Apache that doesn't allow the, this generation to purchase homes? What is the number one impediment you're finding?

Ms. KITCHEYEN. Currently, the number one barrier is the fact that over a year ago, the tribe submitted to HUD environmental reviews. And because they are so slow in doing their job, we are two years behind in spending our dollars.

Mr. RENZI. Tell me a little bit about that submittal, please. It was to the HUD for environmental review.

Ms. KITCHEYEN. Okay. There's two projects, Congressman, that we did. And I'm not sure how many homes we're talking about, but I'm sure that, I think it is about two housing units, so that would be four, and they are behind, like I said. And right now that's the current barrier. We need to use those dollars, and we just don't, you know, we waited—and what we would need is for the government to give more leverage to the southwest office in Phoenix so they can have the additional support to speed up that process.

Mr. RENZI. Thank you. We have officials here on the second panel who will be testifying. He is the Under Secretary for Public and Indian Housing, and I want to be sure that Michael, when he does come up, heard your words, particularly the fact that you have two projects that are ready to go, we just need a little bit of help.

President Shirley, you also spoke and devoted much of your testimony towards, also, a need at HUD. What would you like to see—and, again, forgive me for asking you to repeat, but just encapsulate as it relates to the census issue. What would you like to see the solution being? You can speak directly to the HUD people who are here listening to your voice right now.

Mr. SHIRLEY. My testimony surrounds the multi-race, the use of the multi-race data, and we feel that it's outside of federal law. I guess what I would like to see is getting back to federal law where you work with tribal members to get who is a member of tribes, who is supposed to be benefitting from the allocations for housing from the federal government. That would be my recommendation.

Mr. RENZI. I also want to call attention and thank you for your leadership, along with Chairman Taylor, on the Bennett Freeze issue. I know no one together has worked as tireless as you two guys have to come up with what is on the verge, I believe, of a beautiful compromise.

Finally—yes. That deserves some recognition. It really does.

President Shirley, you have been looking for creative ways to build your own payroll. Monies are being spent on surrounding communities. Can you quickly help us understand what we need to do in order for that dollar to stay on Navajo lands so that it will be recycled and how that would affect your people.

Mr. SHIRLEY. We need economic growth returned. And right now, the Navajo Nation has as one of its initiatives to develop a small business sector of Navajo Nation economy, and that would involve bringing in big boxes like Wal-Mart and Super Target to create jobs, create additional revenues. If we can create jobs here, that's revenues that will flow within the Navajo land and out of the border towns.

Mr. RENZI. By creating the jobs, you are going to have the ability to borrow and have the credit and ability to lend.

Finally, as far as the White Mountain Apache are involved, sir, thank you for coming and filling in for Chairman Massey. We were able to accomplish together a project that both the governor's office, the State, as well as the federal government, this facility called Apache Dawn. It was one of the first areas where we were able to lend money, to get the Home Loan Bank out of San Francisco, through an Arizona bank, to lend money to you all.

And I think the issue came down to—obviously, traditional lenders won't lend because of the sovereign land. They won't attach collateral to sovereign land. This is one of the big issues as it relates to the traditional lending arms of a commercial facility looking at attaching to sovereign land. They don't do it.

Can you quickly tell the people here how you were able to overcome that obstacle and how this model has become a model for, I believe, many of the Native American people around the nation?

Mr. WINFIELD. One of the things I would like to express to the committee here is that I think White Mountain Apache Tribe has

been really looking forward for some great opportunity, and I think that they came when the national President expressed about these kind of projects, and we got into the picture and we entered, got ourself into it to the point where we decided to go after some of these projects. So I have a young lady from the housing program with me so I will let her express, explain this thing. I would like to call Miss Yazzie to come over.

Mr. RENZI. State your name for the record, please.

Ms. YAZZIE. My name is Aneva Yazzie. I'm a management consultant to the White Mountain Apache Housing Authority.

In response to your question, Congressman, what we have utilized in order to make this whole transaction possible was to take advantage of HUD's federal loan guarantee programs offer under the Section 184 program, as well as HUD's Title VI loan guarantee program to overcome—to minimize financial institutions' risk on reservation land for the White Mountain Apache Tribe.

So in that regard, we were able to put in the underwriting with the various bankers, Bank One, Countrywide Home Loans for the Apache Dawn program, and then the WIFA state agency as well is a qualified lender.

Mr. RENZI. So to get those financial organizations to lend money to the Apache Nation, and they can't collateralize the land, did we post a bond to collateralize? What collateral did you all provide to make them comfortable with lending the half million dollars you got in order to finish the infrastructure?

Ms. YAZZIE. What collateralized under that bond underwriting process was the Section 184 loan program. Let me explain that process real quickly and as simply as I can.

What we have done is we have utilized HUD's 184 loan program to get the construction loan for each home that was built with Bank One. I'll name the financial institution that we partnered with. Bank One then, in turn, sold the mortgage loan to a loan servicer, Countrywide Home Loans. Countrywide Home Loans then, in turn, pooled those loans into a Ginnie Mae security. The Ginnie Mae security then was sold to the bond trustee. In this case, the bonds were sold, which they held the notes to pay the investors.

Mr. RENZI. So that creative financial instrument was then able to allow and effectuate how many homes at Apache Dawn?

Ms. YAZZIE. We initially planned 250, but we are building now 317 homes for $25 million.

Mr. RENZI. 317 homes, new homes, as a result of this creative financing.

Mr. Chairman, I see my time is up. I want to thank you very much. Chairman Taylor, I didn't get a chance to ask my question of you, but we'll talk later.

Thank you, Mr. Chairman.

Chairman NEY. Thank you. The gentleman from Utah.

Mr. MATHESON. Thank you, Mr. Chairman.

I have to say this panel, in reviewing their testimony, has offered a number of specific recommendations. I'm very impressed with the quality of the testimony. I think it gives the committee a lot to cue on and consider. I've sat in on a lot of congressional hearings in

my short career, and this is very impressive in terms of your testimony. I appreciate that.

A couple things I wanted to ask about. First of all, there are a number of impediments. There is no simple answer to these issues. We have talked about the problem with the trust and tribal lands, the lack of infrastructure in terms of water, electric, roads. We have talked about working with federal bureaucracies. I understand that there are a number of challenges here, but there is another one we haven't talked about too much, and that's the overall funding level. And, as you know, there is a concern about the budget, consideration going on in Congress right now what the funding levels are going to be and if they are going to be cut or not.

I hear it's going to take, from Mr. Taylor's testimony, 123 years to meet current demands. And I assume that's because right now, based on the funding stream coming to you, that's what it equates to, 123 years to meet your current demand.

Mr. TAYLOR. That's correct, Mr. Congressman.

Mr. MATHESON. He said yes. I'll answer for him.

What I hear from the San Carlos Apache is that you have to build 125 homes a year for ten years? Is that a rate that you are achieving right now with the funding stream you've got.

Ms. KITCHEYEN. No, sir.

Mr. MATHESON. What rate——

Ms. KITCHEYEN. It's not what we're achieving right now. Currently, we have 2,400 families on the reservation that need homes, and 39 percent of families live in substandard housing. And we also have 40 percent of families that live in overcrowded conditions. Ninety-four percent of 3,067 total families are considered low income under NAHASDA.

So what we need is more money committed to build homes on the Indian reservations.

Mr. MATHESON. I don't want to oversimplify. I said at the start of my comments you can't oversimplify. And just more funding is not the only solution here, but I think we need to put that issue out as one of the variables we ought to be talking about. We ought to talk about the fact that the budget considerations in Congress right now, I do not think are adequate. This majority would probably agree with that comment.

I wanted to switch to Chief Smith. You mentioned in your testimony how the Cherokee Nation is the largest user of the loan guarantees under Title VI of NAHASDA, and you're actually looking to expand it because relatively few tribes outside the Cherokee Nation have been taking advantage of this program.

What is it that has allowed you to take advantage of this program in such a successful way.

Mr. SMITH. Probably the necessity of the moment. The funding by the government is very marginal. We have to be very creative and aggressive. We have had the cooperation of the local banks and HUD and other agencies. We borrowed $50 million. We anticipate it's going to build 550, 600 houses. We have already got 400 on the ground.

Mr. MATHESON. I would just suggest it sounds to me there may very well be a lessen to be learned in terms of your relationship, you said with your local banks and whatnot, that other tribes could

benefit from as well in terms of this program. I think that's another piece of information not just for us, but for the other folks on the panel. That's a good lesson we could take some advice in.

One more question I have on the trust status of lands and its impediments to moving forward. I read in one of my pieces of material that I was provided to prepare for this meeting that under the current backlog with BIA title searches, that there is a 113-year backlog.

How are you ever going to make progress on your housing shortages with that kind of backlog? Maybe there is no answer to that, quite frankly, but tell me if that's a significant issue in trying to make progress in the housing. And I'm asking no one in particular, but how is that affecting you when you have BIA that slow in doing the title searches?

Mr. SHIRLEY. Right now, that's—you're right, Congressman Matheson, that the BIA just hasn't been there for tribes. In our case, the Navajo Nation, right now we are trying to go through a reorganization, trying to just get at that. They should have gotten that fixed decades ago. And right now it's a big hinderance because of the lack of their progress, or the lack of being there for tribes. And all I can say is that because of them, my gosh, on Navajo land not only are we behind on improving housing, but we are behind by $435 million.

Mr. MATHESON. I know my time is up, but one last question.

In terms of this trust land status and how it's been an impediment to you making progress on the Navajo Nation in terms of housing—and I know this hearing isn't specifically about housing, but is that also affecting you in terms of moving forward, in terms of commercial development and economic development within the Navajo Nation as well?

Mr. SHIRLEY. Yes, it has. In terms of leasing, same with Congressman Renzi addressing collateral and borrowing money, we can't put up the land as collateral to borrow money. That has been one of the biggest impediments.

And, also, because of trust land status, the BIA has to have a hand in every business that is leased. And right now, we are trying to lock up on the loans to get away from that. If we could do our own leasing, I think that would go a long way towards putting economic development on the fast track.

Mr. WINFIELD. I would like to express a few items that were brought up about the need of housing.

Today in the United States there is 500 Indian tribes that the unmet needs are so great that what you brought up, 113 years possibly to catch up. I am involved in the National Budget Tribal Committee with the western region. There is 12 Indian tribes throughout the United States that have been putting the 2006 budget together. And the last two, three weeks ago, we were back in D.C. And sat with the committee and the Department of Interior to start on a financial budget for 2006.

Just to let the public be aware, United States BIA tribal prioritized budget allocation for 2006, we are going to see $253 million budget cut for Indian tribes throughout the United States. For 2005, we experience over $50 million budget cut already. So, through the President of the United States, we have experienced

for 2005-2006 a big, major budget cut for Indian country. And we are trying to request for top priorities on the allocation, and on the list, housing is one of them that is a main need. But we are continually seeing ourself being involved in budget cut from Department of Interior.

We don't know how we're going to see ourselves in another so many years, 2007, how our budget will look, but 2006, it hurts to see $253 million budget cut for United States Indian tribes, twelve region, 500 Indian tribes. You are involved in the committee is great for housing. That's the greatest thing. We even put the Housing Improvement Project, they call it HIP, into our top priorities, and that has hit a major cutback already, too, from the BIA.

So talking about HUD here, HIP is getting major cuts and we're hurting. Indian tribes is hurting. Your visit to Navajo Nation, if you visit the whole 500 Indian tribes, you would come to a similar housing need for Indian people. So, you know, I hope that this meeting will come to something very special and major so that one day we can see improvement in Indian country because of great equal housing.

Like the San Carlos Chairwoman said, 2,000 plus need; White Mountain is about, somewhere close, near the same number for our people. Thank you.

Mr. MATHESON. I appreciate that.

Ms. KITCHEYEN. Chairman Ney, if I may, please. I forgot to include this as part of the formal testimony. I'd like to enter it at this time, please.

Chairman NEY. Without objection.

Ms. KITCHEYEN. Thank you.

Chairman NEY. Let me just note in closing this panel that we need to—and, unfortunately, the BIA is not here today. Another thing we need to do between now and then.

I wanted to state that this brings up some issues, and although all of us value housing, these new bits and pieces of things work more correctly when you start to look at other areas where housing is done. For example, in my area, how housing is done now, there's the trust, the deed, a variety of factors.

But it also seems that if monies go through HUD, some monies go through BIA, some monies through veterans, they are going to come to a log jam at every point involved in the BIA. And what is going to happen is, if you want to talk about budgeting, is people in Washington that deal with budgets are going to look at and it say, well, the money was given to the Indian community but they didn't use all of it so, therefore, the money is coming back that wasn't used.

And you can understand that. That's part of the process of thinking. I'm not saying it's always correct, but that's part of the process of thinking.

I think also, I'd like to know as the monies come out where they go, what holds it up. So, obviously, if there is a 113-year log jam, we have a problem with—magically, today, if there was enough money to build homes—getting titles. So I think we need to look at that.

I want to thank the great panel. You have provided a lot of information. You have done a lot of good today. After listening, I under-

stand, and I'm also a little confused, which is not bad. It makes us ask more questions. So I want to thank the panel.

We will move on to the second panel.

[recess.]

Chairman NEY. The hearing will come to order if it could, please. We will now continue with panel two. Please take a seat and we will go on with panel two.

The first person to testify for panel two is Gilbert Gonzalez, Jr. Gilbert Gonzalez, Jr. is the Acting Under Secretary for Rural Development, the U.S. Department of Agriculture. He oversees three agencies—if we can come to order, please, so we can hear the second panel, which is important. Can we come to order. Okay, you're being tougher than Congress is. If we can please come to order.

Mr. Gonzalez oversees three agencies, the Rural Business Cooperative Service, the Rural Utilities Service and the Rural Housing Service that together provides $14 million annually in grants, loans, and technical assistance to rural residents, communities and businesses.

Mr. Gonzalez has been active in banking, housing and economic development efforts in the State of Texas. He was the founding President of the Community Development Loan Fund, a for-profit loan and development corporation, a collaborative effort between the city of San Antonio and 21 banks. The corporation served the credit needs of small minority-owned and women-owned businesses in San Antonio.

Michael Liu is the Assistant Secretary for Public and Indian Housing at the U.S. Department of Housing and Urban Development. He oversees the administration of all public housing, Section 8 rental systems, and Native American programs. Programs are comprised of over 60 percent of the housing budget, over $30 billion.

Prior to his assuming his position at HUD, Mr. Liu served as a managing committee member for the Federal Home Loan Bank of Chicago.

We want to thank both gentleman for coming the distance here to Arizona and we will start with Mr. Gonzalez. Thank you.

STATEMENT OF GILBERT G. GONZALEZ, JR., ACTING UNDER-SECRETARY FOR RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY ED BROWNING, STATE DIRECTOR FOR ARIZONA

Mr. GONZALEZ. Thank you, Chairman Ney, members of the Committee, for the opportunity to discuss how USDA Rural Development is working to support housing opportunities for Native Americans.

But before I proceed, I would like to introduce our State director for Arizona, Eddie Browning, and some of our Native American and housing specialists.

It is personally gratifying for me to lead a team of professionals who work every day with families and communities of various Native American nations and other rural areas and to see and hear how Rural Development programs are impacting the lives of people living in rural areas.

Mr. Chairman, the housing programs authorized by this subcommittee are changing lives and are bringing new hope where it didn't exist before. Rural Development is proud to be part of this effort to increase housing opportunities for Native American families. We are also proud of our commitments, to assist families and communities with overall economic and community development needs.

Rural Development is essentially a large bank with an $86 billion loan portfolio. Our mission is to increase economic opportunity and to improve the quality of life for all rural communities. Our vision is to be a catalyst and to help rural communities to diversify their economics and to increase the flow of capital for homeownership, for entrepreneurship and for infrastructure.

Homeownership is the oldest form of building equity. Rural Development has seen a 20 percent increase in single family housing direct loans to Native Americans over the last three years. In our single family housing guarantee program, we have seen nearly a 50 percent increase.

Supporting existing housing: For example, the families in Le Chee have received repairs and renovations that have brought new "luxuries" that we take for granted, such as indoor plumbing, electricity, et cetera.

Other housing opportunities: The White Mountain Apache multi-family housing complex was dedicated last Thursday. It has 22 units that will provide decent, safe, and affordable housing. Displayed to my right is the multi-family project that I am describing. And, obviously, there is a celebration with the Crown Dancers, celebrating the grand opening of that multi-family project.

Entrepreneurship is the economic engine of the U.S. economy.

Rural Development invested $31 million in grants and low interest loans for local revolving loan funds for individual business startups and expansions, and 16 business loan guarantees.

The third leg of economic development for rural areas is infrastructure, and I want to cite one example of what we are doing in rural America. Our broadband program and other technologies are bringing and providing rural communities the ability to compete domestically and globally.

An example of this is our distance learning and telemedicine program and our broadband program. Both bringing economic opportunity and quality of life for those in rural communities. The Wellpinit School District on the Spokane Indian reservation, which serves 450 students K through 12, is one of the examples where we provided assistance. Several years ago, the school district was concerned with dropout rates of the students. Becoming aware that they lacked access to a variety of classes their students needed, they decided they needed to create global classrooms where students have access to educational opportunities worldwide in a job corps training center. They applied for and received a distance learning telemedicine grant from Rural Development to help create these classrooms and training facilities.

Since then, they have received a second distance learning telemedicine grant. This past year, the school district had a 100 percent graduation rate, and all 13 graduates went on to attend col-

lege. As a group, they received nearly a half million dollars in scholarships.

Secretary Venaman announced in May 2003 $20 million in grants to support additional advances in technology and broadband. Of that, eight million is going to support Native American ventures, three here in Arizona, for over $760,000.

Coming from the private sector myself and coming to the government, there definitely is a lack of coordination. Successful economic development requires working together, cooperation, coordination with federal and private sector partners, and more importantly with educational partners.

Many who are present here today, Fannie Mae, the banks like Wells Fargo, credit unions and others, Rural Development in the past two and a half years has partnered with HUD, the Small Business Administration, Treasury, CDFI program, Congress, its EDA program and HHS, just to name a few. Banking partners in my, in my experience are capital providers who will bring economic opportunity to rural communities.

Since the beginning of the Bush Administration, we have utilized in Rural Development 40 plus programs administered by Rural Development to invest over $37 billion to support local economic and community development efforts, investments that will improve overall living and economic conditions in rural communities, including communities in the nations represented here today.

Our philosophy is that it's all about local ownership and local control, and when local leaders drive these opportunities, businesses flourish, more families become homeowners, access to health and educational services are improved, and the community as a whole begins to reap the benefits. The Bush Administration has been working hard with American Indian, Alaskan Native tribes, tribal communities, tribal organizations and individuals to provide a greater understanding of the investment opportunities available and assist with guidance on how to access Rural Development financing.

Since the beginning of the Bush Administration, Rural Development has doubled the investments made to Native American communities. In fact, Rural Development has provided nearly a quarter of a billion towards this effort; every year, setting new records and providing financial assistance for housing, community facilities, economic development, and infrastructure.

To my far right is a second set of graphs that shows in 2001, Rural Development provided $177 million in Native American communities. In 2002, we provided $191 million in Native American Communities. In 2003, Rural Development invested about $234 million in rural investments in Native American communities.

Mr. Chairman, your hearing today provides us with an opportunity to share with you and members of the subcommittee ways in which we are administering Rural Development programs to maximize federal resources with other federal, tribal, state and local government and private sector partners, as well as individual investments to supplement the resources provided through Rural Development. This becomes particularly important as we seek to reach more communities and individuals.

I believe we are making progress, but I also believe we must continue to find new ways to do more. I have shared in my written testimony many of the successful efforts we have undertaken over the past three years, particularly in support of Native American families and their communities.

Mr. Chairman, I am happy to answer any questions you may have at this time.

Chairman NEY. Thank you, Mr. Gonzalez.

[The prepared statement of Gilbert G. Gonzalez Jr. can be found on page 86 in the appendix.]

Chairman NEY. Mr. Liu, to you.

STATEMENT OF HON. MICHAEL LIU, ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. LIU. Mr. Chairman, members of the committee, thank you for inviting me to this very important hearing on improving housing for Native Americans. My name is Michael Liu, and I am the Assistant Secretary for Public and Indian Housing, responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to 562 federally recognized Indian tribes. We serve these tribes directly or through their tribally designated housing entities by providing grants and loan guarantees designed to support affordable housing and community and economic development functions.

Tribes are improving housing conditions for their members. This momentum needs to be sustained as we continue to collaborate to create a better living environment for these families.

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with federally recognized Indian tribes. HUD is committed to honoring this fundamental precept in our work with American Indians and Alaskan Natives.

Over the seven years that funding has been made available under the Native American Housing Assistance and Self-Determination Act, NAHASDA, over $4.4 billion has been appropriated through HUD to try to get tribally designated housing entities to provide decent, safe and affordable housing throughout Indian country. During this same period, HUD's Indian CDBG program helped address the economic development, infrastructure and community development needs of federally recognized tribes with $485 million in funding.

The Section 184 loan guarantee program, which made its first loan in FY '97 has guaranteed over 1,500 loans worth more than $151 million. The program provides the answer for many families, tribes, and TDHEs who want to obtain home mortgages on trusts or restricted lands, as well as fee lands where there is a service area or area of operation that has been assigned to the tribes. These are places where private market lenders never did business before.

The Title VI program allows the tribe to jump start and enhance its housing programs with federally guaranteed loans. Loan guarantees amounting to $77 million are in place under the Title VI program. I encourage you to review my written testimony which

begins by briefly outlining our programs, going over the numbers in the FY '05 budget request, and then discusses an issue that I want to focus in on today: The large credit authority balances and our loan funds and how we are working aggressively with tribes and lenders to get much needed capital into Native American communities for homeownership.

We have two loan guarantee programs that I touched on a moment ago. I would like you to consider them when you think about homeownership. The Section 184 Indian Housing Loan Guarantee Program certainly is in line with one of the administration's highest priorities, and that is creating more homeownership for America. While 70 percent of all American households own their own homes, the number is significantly less for Native Americans, especially for those on the rural trust lands that constitute most Indian reservations.

Section 184 provides a 100 percent guarantee for loans to income eligible and creditworthy Native American families, Indian tribes, or their tribally designated housing entities. Borrowers can purchase, construct, or acquire single-family homes on Indian trust or restricted lands, land within the service area of an IHBG grant recipient, and in other designated Indian areas.

The reluctance of banks and lenders to engage in mortgage lending on trust land prompted creation of the program. It has made homeownership a reality for many Native American families. The 100 percent guarantee, combined with lower closing costs, is attractive to both lenders and borrowers, and if used on trust lands, tribes must have a functioning tribal court system or enter into an agreement with another ajudicatory entity and enact ordinances covering foreclosure, eviction, and related matters.

A direct result of the program is it provides an opportunity for lower and moderate income families living on reservations to move from subsidized housing units and thus freeing up that housing for use by low income families.

The GAO, in 1997, pointed out that from 1992 to 1996, only 92 conventional home mortgage loans were closed on tribal lands. Half of those were on a reservation where the tribe owned the bank. As I mentioned earlier, working with now nearly over 200 lenders, including Wells Fargo, Bank One, US Bank and Washington Mutual, among many others, including small banks, HUD has assisted over 1,500 families with their housing needs by guaranteeing mortgages where others would not.

Section 184 loans have been sold to 18 entities, including two Federal Home Loan banks, Fannie Mae, Freddie Mac, Countrywide, M and T Mortgage, and the Alaska, New Mexico, North and South Dakota state housing finance agencies. Both the Navajo Nation and the White Mountain Apache tribe are active 184 borrowers. They have developed several projects using 184, including Carigan Estates in St. Michaels, which is near Window Rock, and the Apache Dawn project which you have heard about this afternoon.

On the Title VI guarantee program, we are focusing on developing and strengthening reservation economies on a larger scale than just purely housing. Through this experience, we realize that tribes need more access to banks and other financial institutions.

One of the best ways to gain access and foster this relationship is to look at leveraging public funds with private investments and gain greater economic benefit. The Title VI program is available to Indian Housing Block Grant recipients in need of additional funds to engage in affordable housing. A private lender investor provides the loan and the government guarantee ensures repayment in the event of default. If there is a default, the government will seek repayment through the borrower's IHBG funds.

Title VI projects are usually larger, more sophisticated endeavors, using a variety of funding sources, but that is not a program requirement.

Loan guarantee funds and the balances and initiatives. I have directed the Office of Native American Programs to focus attention on how to improve participation in both the 184 and Title VI programs. ONAP will accelerate its outreach to lenders, tribes and TDHEs and more aggressively market the programs. We have significantly increased our loan guarantee training sessions and included segments about them in other trainings and other public events whenever possible. At every available forum, I am educating the public about the programs and inviting whoever is interested to come and talk to HUD about how the program works and how to improve the program to make it more user friendly.

But those millions of dollars will not be available for an unlimited time. I'd like to address just for a moment now the proposed cancellation of these loan programs.

The Department proposes to cancel unused credit subsidy totalling approximately $54 million which has accumulated in the——

Chairman NEY. I'm sorry. What was the amount?

Mr. LIU. $54 million in credit subsidy which has accumulated over the past five years.

These proposed cancellations will enable us to preserve full funding in our '05 budget at the '04 request levels for all Native American programs. The rescissions will not occur until the end of fiscal year '05. Any unused credit subsidy that has been committed by that time will not be rescinded. We ask all here who are interested, we want to use them so that we don't lose them.

In conclusion, sir, HUD respects and supports the progress being made by tribes and their TDHEs in providing affordable housing to Native American communities.

This concludes my remarks, and I stand happy to respond to any questions from you or your members. Thank you.

[The prepared statement of Hon. Michael Liu can be found on page 139 in the appendix.]

Chairman NEY. I want to thank both gentlemen for your testimony.

Let me just point out a couple of things. Of course, much of the Native American land is held in trust—before I do, let me ask one question of Mr. Gonzalez.

When you are assisting with housing, or programs on Indian land, do you also at the end of the day have to have the BIA involved the same way as HUD would?

Mr. GONZALEZ. I've got some of our technical staff, but I would say in perfecting our liens and deeds of trust, the BIA does play a role in terms of title processing.

Chairman NEY. There are issues about the trust, the trust status, the type of economic activity sometimes that can be allowed on Native American lands according to some reports, so I wonder how that affects either one of your abilities.

Also, the inspector general report states several things. It says when projects are assisted by multiple programs, there are conflicting admission requirements. So if you're one department, the veterans perhaps have some money for housing, USDA, HUD, BIA. So this report says when they are, again, assisted by multiple programs, there is conflicting admission requirements. So one would require, you know, more for admission than another.

Also, it goes into the TDHEs. Now, as far as the TDHEs, it says something about some of their unfamiliarity with the NAHASDA requirements. So the nature of my question, I guess, is this—and, of course, that's no different than the public housing authorities that will run into some problems. And HUD has to work—you know how the system works with the housing authorities.

With regards to the BIA and this backlog, and obviously you issue X amount of millions of dollars which has not been spent so therefore, eventually, we all know what's going to happen. It's going to be taken. Having said all that, is there something that Congress needs to do to sit down with all the parties involved, whether it's the veterans, whether it's the USDA, HUD, and BIA, or can this be done by internal rulemaking authority, or can Congress sit down and somehow be able to work with you all to make this work for the better?

And I'm aiming at what's been testified to as a backlog by BIA. Does something need to be done, or will it work out, or—any opinions?

Mr. GONZALEZ. Let me just make some observations, Mr. Chairman. The President's Initiative on the blueprint for the American dream is truly designed to increase minority homeownership by 5.5 million by the end of this decade. I think what that did is collectively bring the agencies together, USDA, HUD, and housing programs like the VA and any other agency, FDIC, to provide that counseling and actually bring these agencies together to try to address what are some of the barriers and obstacles to homeownership.

And I'd say at this point that we are seeing some tangible results there. I think in this case, I think what we need to do is actually work with BIA, work with David Anderson, and try to remove some of these barriers to homeownership on the Native American lands.

Mr. LIU. I certainly can't speak on behalf or for the bureau. I will echo some of the comments of Mr. Gonzalez in regards to this I think we are having some success in certain regional offices with BIA where we have seen some best practices from other parts of the country and applied them. For instance, in our office in Ashland BIA.

But I think from HUD's perspective, we certainly would welcome involvement from Congress and working with us and working with BIA to assist in establishing the priorities that we think are important in regards to the need to have all of us working together and functioning correctly so we can streamline and get the process and get the paperwork done.

Mr. GONZALEZ. If I can add one more thing. I know that Michael and I talked about this last week, but, essentially, the One-Stop Mortgage Initiative in Indian country, which is an initiative with Fannie Mae and RD and BIA and HUD to try to really come up with uniformity and processing of the applications, and I think that could be a big help.

Chairman NEY. I think that's an issue we can look at, the uniformity and also what we can do to help in Congress. And then, when we get back to the Capitol, we have a follow-up hearing with the BIA, and I think we need to ask them, you know, this is what is stated as a backlog, why has that happened and what can be done to correct that?

Ms. WATERS. First of all, I would like to thank Mr. Gonzalez and Mr. Liu for making up our second panel here today, and I thank you for providing us with additional information that helps us to understand the complexity of this problem.

It seems to me that we have resources but somehow they are underutilized for the most part. It seems to me that some training has gone into how to consolidate services but, again, it may not be working as well as we would like it to work. One-Stop, that's a great idea, and it seems to me that that should bring all of the entities together and make it easier to navigate these various agencies.

But let me ask about the under expenditure of the guaranteed loan, the loan guarantee monies. It's a little bit upsetting to know that we have funds in these loan guarantee programs that are going underutilized. Whenever that happens, it usually points to a problem in getting people to implement and usually you have to do something about building capacity. If people are underutilizing funds, it means that they need some assistance in being able to learn how to utilize those funds. We have discovered this in some other programs that we have been involved in.

What have you done and what can you do to build capacity so that these funds can be utilized rather than us sitting here and letting them roll out over a five-year period of time?

Mr. LIU. You are absolutely right, Congresswoman. There does need to be action steps, real steps to be taken and not just the recognition of a problem. We have for the first time—and I'm not going to lay the blame on anyone. Part of the buck stops here.

We actually have begun, we have set, now, goals for regional offices in terms of loan volume, stretch goals. We are looking at, hoping to do a couple hundred million dollars' worth of mortgages. If you average each mortgage at around a hundred thousand dollars, that's really not that many mortgages, but if you look at the mortgage market as a whole, it's really fairly modest.

That in itself has focused attention of our managers in the field on 184. I think even in this region here, Mr. Mecham, our field office director, has done an excellent job in the past six months in really going out into Indian country, alerting tribes to this resource and working with them because now he also knows he's going to be measured in terms of his performance on whether or not his region is going to meet their goals. That's one.

Number two, we have scheduled and have had a series of regional meetings, bringing in tribes and financial institutions, both

retail and secondary market, to talk about leveraging of funds, financing, utilizing 184 and Title VI in real workgroup situations. Not just on a very broad basis, but sitting down and trying to work through issues and specific problems which are involved. Now, in those sessions, USDA has been involved as well as BIA. So that process is going on, the capacity building.

We are working with our partners who do provide TA to work with us and also going out and focusing on these programs. So there are action steps going on and we certainly hope to have some real results by the end of this fiscal year.

Ms. WATERS. Well, let me, after I finish this, let me just say that I believe that the lending institutions would be happy to have a 100 percent loan guarantee, or even an 80 percent loan guarantee. And I just know that if this was better marketed or if they really understood it, they would be knocking down the door to get a loan guarantee.

Now, when you say that you go out to the tribes and you're trying to put this all together, I would like to know whether or not the tribes have the ability to either employ or contract with consultants or others who could help expedite putting this together and whether or not the institutions themselves are appointing or identifying folks inside their structures who are dedicated to bringing them more 184 or Section VI or 502 money. Because I think they need to identify somebody inside the institution who will spend time on this, who will learn it and understand it and work with the implementers, whether that's someone coming directly from the tribes or someone that they hire to help them with it.

Can any of the dollars be used from the loan guarantee program to actually support capacity building?

Mr. LIU. We actually have technical assistance and training dollars and we have allocated substantial portions of those in support of the 184 program. The tribes themselves, obviously, do have the ability to use their grant funds to assist them.

I'm engaging in direct conversations with many banks right now just on that topic that you are talking about, the assigning of staff and individuals to support the interest in the program.

Finally, we are doing a better job of learning a number of unique features of 184 which can mitigate a lot of the perception problems that still are associated with loans made on tribal lands. The one specific point is that under the 184, a lender has the option, in the event a loan craters in, in the event of a default, a lender does not, under 184, have to service that program to the end of the process before getting reimbursed. The lender can assign that mortgage to HUD and HUD will take care, then, of the servicing of that loan to foreclosure or reassignment, which is very unique.

Ms. WATERS. How long have you been talking to them about this?

Mr. LIU. We have—well, actually, since I started, which is about three years ago, and then on an accelerated basis, about a year and a half ago. It takes time. It takes time.

Ms. WATERS. Well, again, you have just made it even more attractive in the way you have described, that they don't have to service it, that they can give it to HUD.

I just don't understand, if you've been spending three years on this, or even one and a half years, why they are not beating down your door. I don't get it.

Mr. GONZALEZ. If I may, Congresswoman Waters.

I just want to say, in terms of capacity building, that our State offices here in Arizona and throughout this region are doing the outreach on Native American lands and communities, and are pretty effective at that. In fact, the Window Rock location is actually an office that services these Native American communities. We also do have an office I believe in Flagstaff, and some of these are actually staffed with tribal members that are familiar with doing business in tribal communities.

I'll say with—one point I want to bring out is that Rural Development does have a Five-Star Commitment that it kicked off two years ago, and the focus of that Five-Star Commitment was really to increase homeownership, but it was to lower the guarantee fee, which is from two basis points to about one and a half to make it more affordable. We were looking at doubling the number of self-help grantees, and one of the applicants that we actually went and saw today was the ICE effort. That application is moving into the pre-application stage or predevelopment stage.

But that's an example of what Rural Development is trying to do to improve the quality of life and living conditions in Native lands.

And last, what I heard earlier from the first panel is talking about I believe some of the credit issues, the credit issues in terms of homeownership. We do have a focus here, again, specifically looking at a home buyer education effort in terms of trying to teach people the ins and outs of homeownership and addressing those issues.

Ms. WATERS. As I understand it, and thanks to you, ICE is doing a very good job of that. We were privileged to talk extensively with them about what they are doing and we think that's extremely important. We appreciate the support for that.

I'm going to turn this microphone over, but I cannot help but ask—I want to know about this $54 million. The last $54 million at risk. I want to know how much of that money is at its five-year point where we are going to lose it? Is that what I understood you to say?

Mr. LIU. Yes, ma'am.

Ms. WATERS. Could you please let me know? How much of the $54 million—or is it more than $54 million that's now at a point where it's going to have to be returned?

Mr. LIU. In the '05 budget request, there is a decision clause that does combine for the Title VI and 184 program amount to $54 million in rescission money at end of FY '05 should the associated credit not be used.

Ms. WATERS. Mr. Chairman, I'm going to give this back to you, but I wish somebody could continue this, see if we can do something to keep from having to rescind these monies.

Chairman NEY. To follow up on that, another thing I—I won't ask for the answer right here, but if we can also start to dig into why. What went wrong, you know, where the stopping point came or did the money go down and there's a problem with maybe education, or the housing authorities, or was it the BIA or—not to put

a finger of blame here, but to find out why the system is coming to a halt. I think that these questions are important, what can we do, and also why is it happening. If we could get down—and I know you can't determine on every single case, but if we can get some generic pattern here of why this is coming to a standstill?

Gentleman from Arizona.

Mr. RENZI. Thank you, Chairman.

Two questions, Mr. Liu. I first heard about the project on the San Carlos today that you heard from Chairman Kitcheyen, two projects which are ready to go. She asked passionately if the Phoenix office could receive leverage in order to be able to push through the environmental review process so we could unlock some of the bureaucratic logjam.

Can you help address that? We also have, Debbie Ho is still here, who represents the San Carlos, in case we can put you two together. Could you address that for me, please?

Mr. LIU. Sure. I'll talk to Mr. Mecham and we will have our office work more closely on the issue and take a look at details as to why there is this hangup in the environmental review situation.

I've heard of problems in other areas in the country. This goes back to, I think, the streamlining and the need for consolidation. And in the environmental review process, I think there is a certain amount of confusion among the agencies as well as with the tribes as to responsibilities and as to perhaps work that may have already been done that can be used for the actual project in question. But Mr. Mecham and his staff will be addressing it.

Mr. RENZI. I look forward to hearing back from you on that and seeing some results, please.

While I have you, you heard President Joe Shirley talk about the census issue, the fact that the data has now changed, or the way you gather the data. Is that correct? So we are using multi-racial characteristics. You heard President Joe Shirley talk about how he would like to see us go back.

I'm considering a legislative fix unless there is some sort of a real justification as to why it is that we should allow those monies to be diluted. The Navajo Nation is the largest Native American Indian tribe in America. We have many tribes with 138 members who have a casino that are much better off, yet they get an equal distribution. Or you can have a person on the east coast check that box now and the monies will go there instead of coming here.

Can you help me?

Mr. LIU. Well, Congressman Renzi, as you know, any information which is based on census information which is recognized—which has been used since the beginning of the NAHASDA, it's based on self-reporting, whether it's one box or whether it's 15 boxes. It's self-reporting by that individual.

HUD has made the policy call based on recommendations from staff as new information has become available, as it has under the new census where an individual is able to check more than one box. But that is the most expansive and most, most expansive reading and provides greater ability for more, most folks——

Mr. RENZI. Sir, I'm with you on the policy. But I'm asking you now, as far as the dilution of monies, can you see here how it's af-

fecting the Navajo people? Obviously, how it's diluted the monies, and the concentration would need to come here.

Mr. LIU. Well, Mr. Renzi, this issue was taken up by the negotiated rulemaking committee, which consisted of 26 members, including representatives from all tribes, from all regions of the country. No consensus could be reached on this subject.

Mr. RENZI. So, what are we going to do about that?

Mr. LIU. Well, since we do recognize the tribes as sovereign nations, and they have been the greatest purveyors of the notion that we should go to negotiated rulemaking, it shouldn't be left to Congress' jurisdiction, shouldn't be left up to the administrations, it should be worked together in a negotiated rulemaking setting, by the lack of the ability of the tribes themselves to come to a consensus on this, I think that's an indication that there's still need for discussion and there is still need for the tribes to interact on this.

Mr. RENZI. I appreciate the answer. We will look at ways that maybe we can address the issue and come up with at least some sort of equal proportion or some sort of formula that works.

Mr. Gonzalez, I appreciate your work. In particular, you have, in your testimony, talked about increases that have occurred. As you can see—and particularly in the first panel—there is a major confidence, a self-determination among the people. There is an independence. And much of this independence of wanting to have homeownership is tied to the fact of the inability of the Navajo people, the Hopi people, the Yavapai Apache, the Apache people to have good, sustainable jobs. Good jobs.

In order for self-determination, in order for the Navajo people, the Hopi people, to be able to pull themselves up as they want to do, in order to be able to help solve the housing situation themselves, not just with government assistance but the real answer—I mean, as was said here earlier, we're not going to add billions of dollars to the budget in order to be able to solve this problem. We need economic development, particularly on the Hopi reservation and the Navajo reservation. Part of that is being able to bring and attract developers.

And I would like to ask you what kind of programs are geared towards attracting developers? What kind of programs do you know of that we could help with economic development. Real jobs. I'll give it back to you. Thank you, Chairman.

Mr. GONZALEZ. Congressman Renzi, I felt that same confidence just during the tour today. This has been my first visit to the Navajo Nation and to the communities we visited today.

But Rural Development, as I see government, it plays a catalyst in trying to encourage private sector investment, and that is our goal. I say this, and I say it quite often, I say that Rural Development is one of the few agencies in terms, when you look at SBA, you look at HUD, that can actually build a community from the ground up with infrastructure in terms of water or waste, in terms of electric, telephone, broadband. Then I go over to housing. It puts people in homes through a self-help program, which is a critical program, I would think here, to encourage that private investment. But to not only build homes, but to build communities. I mean, I believe that's what the people here on the Navajo Nation want, is

to build communities. Around that, you start to create economic opportunity and you start to improve the quality of life in this area.

And last, I will say a little bit about the programs. Those are the guarantee programs, and I think what would work well on the Navajo Nation would be our Intermediary Relending Program, which is our guaranteed loan fund, value added development grants, and renewable energy grants.

These are all tools that rural communities, including the Navajo Nation, can use to bring economic diversity and create those jobs that you are referring to.

Chairman NEY. Gentleman from Utah.

Mr. MATHESON. I appreciate both your testimony and I just want to ask a couple questions.

I get the impression that NAHASDA has been a positive step in terms of housing programs, but I might ask just a quick, open-ended question.

What would be the next step you would suggest from a Congressional standpoint? Are there other improvements you can make to work more efficient, have better results?

Mr. LIU. Well, addressing the guaranteed loan program, I believe that—we are working on this and we have the mechanisms now through internal rules and procedures, but I think if we could open up the prospective as to the applicability of some of these programs that may not, that aren't always tied just to trust lands, where there is, for instance, in the 184 or Title VI, where there is a significant accumulation of credit authority. Native Americans, wherever they live, have a difficult time. I think there's no question there. And I think if we look at what we might do, and we are investigating that in HUD, of opening up the programs where Native American families, wherever they might reside, trust lands or not—because there are, of course, millions of Native Americans who don't live on a reservation—we can find reasonable ways, certainly without taking away the focus of the trust lands, but an ability to facilitate helping those families who don't live on trust lands, I think that would be very helpful.

Mr. MATHESON. There is talk about potentially changing the loan guarantee, the 80 percent. Do you have any comment on that, or what the status is of that.

Mr. LIU. The 184 is, of course, at a hundred percent. That is set by statute and law.

The Title VI program, according to credit reform ONB scoring, is worked at currently at an 80 percent level.

Mr. MATHESON. Just to confirm, it has not always been at 80 percent.

Mr. LIU. No, it has not. It had been at a higher percentage and there was some misinformation or miscommunication between OMB and HUD dating back to 1999 until recently and that had to be cleared up.

Mr. MATHESON. So are you telling me that HUD is going to lower that down to 80 percent.

Mr. LIU. Yes.

Mr. MATHESON. I think that's something we ought to look at.

Mr. Gonzalez, if I could ask you a quick question. I appreciate the efforts of the USDA and Fannie Mae in terms of coordinating

different products. I wonder if you can talk about what USDA has been doing to promote the preservation of 515 housing stock.

Mr. GONZALEZ. Congressman Matheson, good question. I'll answer that question.

Last fall, former Under Secretary Dorr took an initiative to look at the 515 portfolio and look at prepayment issues, look at rehab of those properties and look at really the market conditions. And, so, we went outside with a consultant.

We are in the stages right now of drafting a preliminary report. We will share that with the congressional members, but we should have the final report on the 515. Again, we are looking at market conditions, we're looking at assessing property conditions, and we are also looking at capitalization requirements to see how they might impact those properties and future new construction.

Mr. MATHESON. Not that I would hold you to this statement, but do you have a sense when the final report might be?

Mr. GONZALEZ. We are looking at fall, if I had to gander a date.

Mr. MATHESON. I guess one thing that's kind of struck me today—and maybe this is echoing what Congresswoman Waters said before. This morning, I go and tour these facilities and I see this crying need, and then I come here and I hear about certain pockets of money or loan guarantees or whatnot that aren't being fully utilized. And, to me, that doesn't add up and it really has me wondering what we can do to overcome whatever the obstacles or inefficiencies that are in our system. Clearly, we are not firing on all cylinders and this isn't working, and I think we need to figure it out.

Mr. GONZALEZ. I just wanted to answer—maybe that's a question you wanted to ask Mr. Liu, but in terms of my observations and working in urban and rural settings, working with HUD, BIA, USDA and Rural Development, Fannie Mae, FHOB, and the private sector, we can go on and on, but a coordinated, a really strong coordinated effort there at really bringing those resources to Native American communities and leveraging those with the private sector. And that's the road that I can see.

But to encourage that kind of private investment is going to mean addressing the uniformity and servicing of those loans in terms of issues that we have with others. So that's why I think we can make some ground and begin to address some of those issues.

Mr. MATHESON. Thank you, Mr. Chairman.

Chairman NEY. I want to thank the panel for being here before the housing subcommittee. And with that, we will go on to panel three. I do have to step away for about ten minutes. Mr. Renzi will chair the subcommittee. Thank you. Panel three.

[Recess]

Mr. RENZI. We need to come to order, please. I want to introduce the third panel who has joined us. Chairman Ney will be coming back in just a few minutes.

Let me begin by introducing the panel. First we have with us Pattye Green, who is the senior business manager for Native American Housing at the Federal National Mortgage Association. We also have with us today Freddy Hatathlie, who is a mortgage consultant for the emerging markets at Wells Fargo Home Mortgage. His office is here in Flagstaff. We have Renee Konski, who is a loan

officer with American Financial Resources, Inc. Mark Maryboy, who is a delegate to the Navajo Nation, who I consider a good friend, with the Navajo Nation Council. He is chairman of the Navajo Transportation and Community Development Committee and has done a lot of work for infrastructure here on the Navajo Nation.

Lawrence Parks, a good friend who is senior vice president of the External and Legislative Affairs for the Federal Home Loan Bank of San Francisco. Kent Paul, who is the chief executive officer of AMERIND Risk Management Corporation, who handles a lot of specific issues around insurance and risk-pooling alternatives. June Sabatinos who is the vice president of Ambulatory Care Services at the Tuba City Regional Health Care Corporation, who has an interesting story to tell today. And Russell Sossamon, who serves as the chairman of the National American Indian Housing Council.

I thank all of you for coming today. It's a large panel. I'm going to ask you please to limit your testimony to five minutes, no more than five minutes, so we can move through with a lot of questions afterwards.

Ms. Green, we will begin with you. Pass the microphone, please.

STATEMENT OF PATTYE GREEN, SENIOR BUSINESS MANAGER FOR NATIVE AMERICAN HOUSING, FEDERAL NATIONAL MORTGAGE ASSOCIATION

Ms. GREEN. Thank you, Chairman Ney, Ranking Member Waters, Congressman Renzi and Congressman Matheson.

As senior business manager for Native American Initiatives with Fannie Mae, I assist the regional offices and partnership offices in structuring mortgage transactions on and off trust land. I am also a tribal member of the Choctaw Nation of Oklahoma.

I want to thank you for inviting me to testify on the state of homeownership on tribal lands and to commend you for your leadership on this issue. Your concern and continued attention are critical to the success of public and private sector efforts to expand homeownership opportunities in the Native American community. I am pleased to be here today to discuss Fannie Mae's commitment to expanding homeownership in tribal communities and to share with you the steps we are taking to overcome the barriers to capital access on tribal lands.

Right here in Arizona, last September we worked with Navajo Nation President Joe Shirley, Congressman Renzi and others in putting together a $3 million Navajo community guarantee initiative. The initiative will help approximately 60 families on the reservations to purchase newly-built homes with contributions from their own funds of $500 or even less. As Chester Carl, chief executive officer of the Navajo housing authority observed when the topic was announced, step-by-step, we are identifying and filling gaps in the mortgage finance system for the Navajo Nation, enabling more families to become homeowners, which is an important first step in the creation of wealth. I want to thank Congressman Renzi for his work and his dedication on this project. This the kind of public-private partnership that brings real results and innovative solutions to housing challenges.

Fannie Mae has also worked with Dallas Massey, chairman of the White Mountain Apache tribe, and the White Mountain Apache housing authority to develop the Apache Dawn Development Community, which included the first-ever use of tax-exempt bonds by an Indian housing authority.

And over the years, Fannie Mae has also participated with the Hopi, Gila River and Salt River Pima tribes, supporting their efforts to provide information on how to prepare for home purchase process.

I would like to briefly mention our internal Native American Business Council, which convenes representatives from our community development and our regional and partnership offices to work together to expand our capacity to make tangible investments that increase affordable housing opportunities on tribal lands throughout the country. We are building a stronger lender base by educating lenders about the unique characteristics of lending to tribal communities. We are teaching tribes how to leverage federal resources to support the production of additional, affordable housing units.

As part of our 2000 American Dream commitment, Fannie Mae vows to invest at least $350 million to serve 4,600 families on reservations. Over the past five years, Fannie Mae has helped over a hundred thousand Native American families purchase homes by providing more than $14.8 billion in affordable financing. On reservations and tribal jurisdictional lands alone, we have invested over $640 million to serve over 7,100 families. We are pleased that we have been able to reach 191 tribes with our financing.

Fannie Mae has also teamed with PMI Mortgage Insurance Company under their Gateway Cities initiative to provide $125,000 in revolving funds for nonprofit development corporations to build or renovate housing on the Pine Ridge Reservation in South Dakota, and on the Acoma Pueblo in New Mexico.

Earlier this year we announced our Expanded American Dream Commitment, which will increase our efforts in Indian country even further. Together with tribal leaders in partnership with NAIHC, we are working to create a new Native American Strategic Partnership to bring capital to Indian country, with a goal of launching at least ten comprehensive initiatives in tribal areas. We will also increase our investments to support tribal housing initiatives during this decade to at least $1.25 billion serving 11,000 families on tribal reservations and tribal jurisdictional lands.

Fannie Mae's approach to promoting homeownership in tribal communities is two-pronged. First, we develop the right products to optimize Native American access to homeownership, and second, we expand housing capacity on tribal lands.

In 1999, we launched our Native American Conventional Lending Initiative, known as NACLI, designed to make conventional lending possible for Native Americans on trust land and otherwise restricted lands. Through this initiative, the full range of our low down payment mortgage products, as well as specific accommodations responsive to the unique circumstances of the Native American borrower, are available to lenders working with tribal lands.

We currently have relationships with 112 lenders to make loans to Native Americans on tribal lands. Some of our partners are

Countrywide, First Mortgage Company, Washington Mutual, Bank One, American Financial Resources.

Fannie Mae is also working with tribes to support new construction through investments in low-income housing tax credit investments and collateralized revenue bonds. And we have developed a secondary market for development loans guaranteed by HUD under the Title VI. As a result, in 2002, we purchased a $50 million Title VI loan which would help to build 538 units for moderate to low income families in the Cherokee Nation of Oklahoma, the largest Title VI of NAHASDA.

Perhaps the greatest obstacle to increasing homeownership in Indian country is the legal framework governing tribal lands. Tribal governments have taken steps to clarify tribal sovereignty and sovereign immunity, particularly regarding business and housing development, but resolving this issue requires partnership from the private and public sectors. Fannie Mae has worked with HUD, the USDA, and Treasury to support tribes in creating standardized documents and model legal ordinances to support government guaranteed and conventional mortgage activity.

We are also working closely with HUD to streamline the 184 process loans. Additionally, Fannie Mae no longer requires tribes to make limited waivers of their sovereign immunity and we also now provide for the mutual consent to tribal court jurisdiction over conventional lending initiatives on tribal trust land.

Finally, education poses a barrier to capital access for Native Americans. Many Native Americans lack an understanding or familiarity with banking, credit reporting or the loan qualification process. And unsurprisingly, they have difficulty obtaining credit through traditional means.

I hope that in hearing these commitments, you will begin to understand the progress that Fannie Mae has begun to make in expanding homeownership for Native Americans. Homeownership is the key driver of economic growth and revitalization. By expanding homeownership for Native Americans, we can not only provide families with better housing but also with the power to raise capital, accumulate wealth and to build a more secure financial future.

I want to thank Chairman Ney, Ranking Member Waters, Congressman Renzi, Congressman Matheson for their leadership and their commitment to expanding homeownership opportunities for Native Americans. You have been champions of developing housing in Indian country and supporting tribal members' efforts to revitalize their communities. I look forward to working with you and other members of the committee. Thank you.

Mr. RENZI. Ms. Green, thank you for your testimony.

[The prepared statement of Pattye Green can be found on page 102 in the appendix.]

Mr. RENZI. We will move now to Freddy Hatathlie of Flagstaff. Freddie.

STATEMENT OF FREDDIE HATATHLIE, MORTGAGE CONSULTANT, EMERGING MARKETS, WELLS FARGO MORTGAGE

Mr. HATATHLIE. Good afternoon, Chairman Ney, Ranking Member Waters, Congressman Renzi and other distinguished members of the committee.

I am Freddy Hatathlie, a Wells Fargo Home Mortgage consultant for Indian country initiatives. I'm a member of the Navajo Nation who works directly with tribes in the northern Arizona area. I would like to make some brief statements on how Wells Fargo's goals relate to Native American lending and respond briefly to some of the issues that were raised by the subcommittee.

Before I continue, I would like to introduce Dave Howell, who is the vice president of community and government relations, and also Larry Price, who is the branch manager for Kayenta.

For more than 25 years, Wells Fargo has recognized that tribal nations have special financial needs. The challenge might be the trust status of tribal land or a tribe's status as a sovereign nation, or just the lack of standard financial information that is traditionally required for project financing. Wells Fargo is an experienced lender in these questions and I believe has a strong commitment to finding solutions and recognizing the unique status of tribal lands.

Arizona is a very important market for Wells Fargo, and I would also note that Wells Fargo operates in 22 other states that are home to nearly 90 percent of the federally recognized tribes. Wells Fargo provides a full array of financial services, including 15 full-service banking facilities located on tribal reservations.

The subcommittee had asked for specific comments in response to four questions that were raised, and I would like to discuss these in turns.

What initiative has Wells Fargo taken part in or have knowledge of to develop housing opportunities for Native Americans.

I want to highlight some of Wells Fargo's contribution and initiatives to promote housing activities in Indian country. First, Wells Fargo Home Mortgage, with the help of the U.S. Department of Housing and Urban Development, Section 184, can originate 184 loans and conventional loans on trust land. Wells Fargo Home Mortgage, through its housing foundation, is the sole sponsor partnering with the Neighborhood Reinvestment Corporation to provide a Native American community development training program. This program started today and will be ending Friday in Minneapolis. The curriculum includes training programs for home buyers and counselors with an emphasis on Native American communities.

Another area that is going to be addressed in the training is how tribes can leverage resources for housing and development projects in Indian communities.

Other contributions that Wells Fargo has been involved in is making monetary contributions to nonprofit organizations such as Navajo Partnership for Housing, Twilight Dawn, Fort Defiance Housing Corporation and Indigenous Community Enterprises. These monetary funds have been utilized for first-time home buyers to assist with down payment and closing costs.

Wells Fargo also has a financial education in place which includes distribution of Wells Fargo curriculum, a training called Hands-On banking, a comprehensive curriculum available free of charge. And we are pleased to, pleased to mention that states have approved this curriculum for use in public school systems. Wells

Fargo also sponsors Individual Development Accounts to help low-wage earners to become self-sufficient.

Question number two: Is Wells Fargo aware of the One-Stop Mortgage initiative? Yes. Wells Fargo is and was represented during the discussion. The initiative allowed for a uniform voice to be heard at the tribal and federal level. The initiative outlined the challenges and barriers, and recommendations were made to promote homeownership for Native Americans. Therefore, continuing this initiative would advance the housing initiatives.

Question three: Trust land status. Does this affect the private sector's ability to provide housing activities? Yes, it does.

And what actions do you believe must be taken to encourage greater homeownership opportunities for Native Americans? For Wells Fargo, and with all lenders, we are aware of the process and the complexity that it takes to complete a transaction on trust land. The lenders, the family, secondary market, the BIA and the tribe have come to realize this is not a transaction that we can complete in 30 days which would be more relevant for a traditional mortgage.

Just based on example, being a home mortgage consultant, I have been working to obtain an environmental assessment and it has been taking me about, more than a year to obtain one. And, also, with the lease modifications that need to take place on Navajo, it just—you submit a modification, the clients do, and it just takes a while for this transaction to take place. And, you know, you encourage customers, you know, what you need to do is continue to put pressure on them how we can get this modification complete.

And that's the key document, on the home side at least, that initiates the mortgage process on trust land. So these are issues that I constantly face as I work with Native Americans obtaining homeownership.

Question number four: What changes or initiatives are necessary to encourage private mortgage market to invest in Native American areas.

My recommendations would be to establish and recognize a uniform set of procedures at the BIA level. Example: I have a colleague that I work with in Sioux Falls, South Dakota, which is our processing center for trust land lending. And when I constantly meet with him, you know, we describe what kind of transactions we are doing. And what they do there is they do cash-out refinances.

For Navajo, from personal experience, you know, this was the first transaction that I pursued and I was not able to succeed only because, you know, at that level, BIA had mentioned this is something, a transaction that we cannot do. So I know there are stages right now where they are going to implement cash-out refinances, and I definitely believe this is long past due.

Mr. RENZI. Freddie, can you wrap up, please?

Mr. HATATHLIE. I would also like to add that Wells Fargo Home Mortgage is designing an initiative where HMCs will be certified to lend on trust land. Personally, I feel that this is very important because we have lenders that are out there and that want to do lending on trust land and have no knowledge of what actually goes

into lending on trust land. So that's something that's very important that Wells Fargo is working on.

Another initiative, another plan that's going to take place is Wells Fargo Home Mortgagee Emerging Markets vice president, senior vice president will be coming out to Window Rock Wednesday to assess the opportunities that are available on trust land. So—which is very encouraging when you have high-ranking people coming out.

In conclusion, I'd like to thank the subcommittee for allowing me to address my concerns. Thank you.

Mr. RENZI. Thank you, Freddie.

[The prepared statement of Freddie Hatathlie can be found on page 111 in the appendix.]

Mr. RENZI. Ms. Konski.

STATEMENT OF RENEE KONSKI, LOAN OFFICER, AMERICAN FINANCIAL RESOURCES, INC.

Ms. KONSKI. Congressman Renzi, members of the committee, my name is Renee Konski, and I'm a senior loan consultant with American Financial Resources.

Thank you for the opportunity to provide comments on the first-ever hearing on tribal land housing for Native Americans. I'm here today on this panel with lenders and others who individually and collectively are working to increase the homeownership where it's needed the most.

My involvement in this area comes from a personal passion and commitment. Lending as it stands now on Native American trust land takes more. And by that, I mean it's more complicated. It takes more of an expertise.

Experience and volume is what builds comfort and efficiency and, quite frankly, we're not to that level yet. American Financial Resources is an Arizona state loan corporation with about—we lend in about six states. We have about ten years in the mortgage banking business.

I, myself, have been involved in Native American lending for the better part of four. In those four years, I have made quite a few strides. The strides have been realized through my partnerships and relationships. My written testimony offers many experiences of how the Native American programs are working. It offers a lender's perspective on how the largest obstacle to improving housing opportunities for Native Americans and it offers some recommendations for removing obstacles.

I want to spend just a little bit of my time today to talk about the partnerships and relationships that make it possible for the dream of homeownership on trust land.

The HUD 184 program. I have used the program. I have used the program for a purchase, I have used the program for a refinance. The program works. USDA 502. I have used the program. I have used the program for several tribes. The program works.

Arizona Department of Housing. Through their commitment, through their subcommittee meetings, has given me the education and given me the experience to build relationships that have made communication possible in getting my mortgages completed.

The Navajo Partnership for Housing, a nonprofit organization that does provide families with home buyer education, I also sit on that committee as a board member and a member of the loan committee.

And, of course, my partnership with Fannie Mae. It's Fannie Mae that's stood by me from the beginning when I decided that this would be my challenge and my passion. Fannie Mae has been my partner and my mortgages are sold directly to Fannie Mae.

In closing, let me say that while I feel I've made a lot of strides in these areas, there is so much more we need to do. Better communication and trust and a unique commitment for all of us to come together will provide mortgages possible for more Native Americans and the dream of homeownership to come true. Thank you.

Mr. RENZI. Thank you, Renee.

[The prepared statement of Renee Konski can be found on page 131 in the appendix.]

Mr. RENZI. We will move to the Honorable Mark Maryboy, delegate to the Navajo Nation Council. Mark.

STATEMENT OF MARK MARYBOY, COUNCIL DELEGATE, NAVAJO NATION COUNCIL

Mr. MARYBOY. Congressmen Renzi, Matheson, Waters, thank you for this opportunity to address you today.

As chairman of TCDC, I come before you today to initiate what we hope will become an ongoing discussion between your committee and Native American communities about how to craft solutions to remedy the housing problem in Indian country.

We know the federal government is trying its best, but the 1997 GAO report on Indian housing reveals federal housing programs in Indian country were essentially building ghettos in tribal communities. The passage of the Native American Housing Assistance and Self-Determination Act of 1996 has given tribes new opportunities that have allowed the Navajo Nation to provide low income housing for college students, elderly group homes, traditional hogan-style homes for elders and veteran housing. NAHASDA has given us more flexibility through its block grant to leverage other federal funding for both housing and infrastructure development.

However, the federal appropriations for Native American housing are not sufficient and will never be enough as long as the federal laws do not encourage much greater private sector investment. The One-Stop Mortgage Initiative was successful in implementing the HUD Section 184 program. Unfortunately, not enough mortgage transactions are happening to meet the demands for homeownership on the Navajo Nation.

There are a number of reasons for this. First, we simply do not have enough banks. The Navajo Nation has only one bank partner on the entire reservation, so there is virtually no competition for private investment. In an area that covers 18 million acres, the Navajo Nation has only five banking facilities. Second, lenders are unfamiliar with enforcing mortgage or other debt instruments on tribal trust land. It is not that it cannot be done, it is simply that they don't know how to do it. Third, title searches are very difficult on the Navajo Nation because title records are maintained in one

BIA office in Albuquerque, which is responsible for the records on every reservation and pueblo within the entire southwest.

We urge Congress to amend the Community Reinvestment Act to ensure banks use transactions from surrounding communities to maintain acceptable investment scores. Some Federal Home Loan Banks have standards that result in significantly more service to Indian country. The Navajo Nation is currently served by three Federal Home Loan Banks, two of which do not maximize the opportunities to serve the Navajo Nation. The Navajo Nation requests that it receives all services from the Federal Home Loan Bank of Seattle, which has proven most helpful to the provision of home loan banking service to the Navajo people.

And, finally, there is a question of legal jurisdiction. The mortgage companies who are willing to lend in reservation communities typically want to use state law to resolve any dispute. The tribes, of course, want to use tribal laws. Congress can help tribes and States avoid thorny federalism issues by making private lenders' receipt of federal guarantees contingent on such lenders availing themselves of tribal court when they make mortgage loans on an Indian reservation.

The trust status of Indian land does affect the private sector's ability to finance housing for Indians. However, a few tools to overcome this challenge do exist. For example, the Navajo Nation Trust Land Leasing Act authorized the Nation to issue non-mineral leases within the reservation without secretarial approval. These leasehold interests have value and provide an equity interest that individuals can mortgage against.

However, it is unclear whether under the 184 loan program such a mortgage is permissible. Consequently, the Navajo Nation is currently restricting its own leasing authority to business site leases rather than extend its broad power to include housing site lease.

The federal land status of the Navajo Nation is a hinderance to housing development and homeownership. However, it is an underlying problem that Navajo people, like all Indians, are afraid to talk about because a recent federal case law threatens tribal jurisdiction and sovereignty wherever the land's trust status is altered in any way, including the grant of right of ways.

Congress can be instrumental in forging a dialogue on this important subject by commissioning a blue ribbon panel composed of tribal experts to review federal case law to identify how trust status impacts economic development, including housing markets and homeownership in Indian country. Congress must then be willing to listen to tribal recommendations.

Tinkering with federal initiatives today will not provide homeownership opportunities for Indians unless Congress makes a real commitment to curing the underlying condition that prevents homeownership within reservations, rather than treating a symptom. As elected tribal leader, as a tribal member, but most importantly as a father, I ask you to make it possible for my daughter and all Indian children to realize the dream to own a home on the reservation. Thank you very much.

There are portions of my speech that I did not, for the time's sake, I did not read into the record. I would request that they be approved as part of the record, also. Thank you very much.

Mr. RENZI. Without objection. Mr. Maryboy, thank you for the presentation. Your witness statements and comments will be submitted for the record without objection. I'm grateful.

[The prepared statement of Mark Maryboy can be found on page 147 in the appendix.]

Mr. RENZI. Mr. Parks.

STATEMENT OF LAWRENCE H. PARKS, SENIOR VICE PRESIDENT, EXTERNAL AND LEGISLATIVE AFFAIRS, FEDERAL HOME LOAN BANK OF SAN FRANCISCO

Mr. PARKS. Thanks. That's a tough act to follow your testimony.

Good afternoon. I'm Larry Parks and I'm a senior vice president of the Federal Home Loan Bank of San Francisco. I want to thank you, Congressman Renzi and subcommittee.

Ranking Member Waters for having us here to talk about what we do at the bank and what we have hopefully done to put some tangible results on the table.

The Federal Home Loan Bank of San Francisco is the largest of the Home Loan Banks in the Home Loan Bank system, and we are owned by lenders located in Arizona, Nevada, and California. The banks basically make advances, that's our core business, which are loans, loans to member institutions which are collateralized by mortgages. The members of the banks come from California, Arizona and Nevada, banks, savings institutions and credit unions, and they range in size from the largest banks in the country, some of the largest housing lenders in the country, to single offices.

We have a common interest. Our members use the bank as a source of liquidity in providing funding for home loans. Access to the bank's advances enhances lenders' ability to hold loans, which is very important when you're dealing with character lending as is such in Indian country. These loans are usually loans that aren't easily salable into the secondary market and still meet either the seasonal or cyclical demands of the borrowing public. In effect, access to the bank's advances takes the liquidity risk out of lending to families with the fewest financial options.

The core business of the home loan banks is providing advances. We provided about $500 billion in the economy as of December 31st, 2003, and of that, as of last month, about $112 billion of that is from the San Francisco bank. It's a pretty large entity.

A central part of the cooperative Federal Home Loan Bank system is the Affordable Housing Program, through which the Federal Home Loan Banks provide subsidies on loans or cash grants to build or rehabilitate lower income housing through the member institutions. That's a lot of jargon to say we work with nonprofits as an intermediary with our lenders. This is a program Congress mandated during the S&L bailout in 1989 and it has become embraced by a lot of lenders to help meet affordable housing needs in their communities.

The Affordable Housing Program provides grants that equal ten percent of our annual income. So the more income we make, the more we are able to give out in grants. What it does is allow the pooling of resources for purchase, construction, rehabilitation of low and moderate owner-occupied and rental housing. The eligibility requirements for the HP grants help to make certain they provide

needed funding in a competitive manner. AHP grants can be used to fund housing for families or individuals with incomes at 80 percent or below loan median income in a relevant geographical area.

In addition, 20 percent of AHP funded rental housing must serve households with incomes of 50 percent of the are median income and below. AHP-awarded funding is provided only through member institutions that work in partnership with community sponsored organizations.

The idea, I think, when Congress put this together and the Home Loan Bank System has somewhat embraced is to make sure we not only provide housing, but that we leave an infrastructure of locally competitive and capacity built nonprofit insitutions and communities as well.

Since 1990, the San Francisco Bank has provided $312 million in AHP assistance to 2,400 projects, rental and homeowner opportunities for 60,000 households. Through the AHP, a cross-section of lenders, developers, community-based organizations and local housing agencies work to create affordable housing. In 2003, the last year that's most relevant, the San Francisco Bank provided $36 million in AHP funding through its members to 103 projects that were awarded competitively. Member banks teamed up with nonprofit and for-profit developers to develop project plans and submitted them to the San Francisco Bank's AHP process which scores and ranks them. The AHP subsidy has been used for things like on-site services made available to residents such as daycare centers, counseling and job training, computer learning centers and the need for the subsidy to complete the project.

In Arizona, the winning 2003 projects were located in Pima, Yuma, Santa Cruz, Cochise and Maricopa counties, receiving $5 million in subsidies from the Home Loan Bank. And the member institutions included Bank of America, Canyon Community Bank, Johnson Bank Arizona and BankUSA. Projects included ranged from $20 million in Phoenix for transitional housing for very low income Native Americans and people with special needs, Whispering Pines Apartments, to 61 new single-family homes for low to moderate income, first-time home buyers in Nogales.

In addition to housing, Whispering Pines will include a kitchen and services for the residents such as employment training and counseling, health and youth programs and child daycare. The Pena Blanca Village homeownership project will include pre- and post-purchase homeownership counseling, a community facility and child daycare.

The primary source of the activity by the San Francisco Bank in Native American communities is through the Affordable Housing Program, and that's why I was focusing on it. Since the program's inception, seven projects on Native American lands have been approved for grants by the San Francisco Bank. These projects provide 282 units of affordable rental housing and 18 units of affordable ownership housing, resulting in attractive, sound shelter for 300 families.

The funding by the San Francisco Bank of AHP projects on Native lands has not been without difficulty, primarily because of the unique legal status of tribes and their lands. The sovereignty of Native American lands and their trust status create legal problems

for traditional methods of housing finance. That is, traditionally, lenders place a lien and have the ability to take possession of or sell the property to satisfy the lien. Generally, this tool is not available on tribal lands.

The San Francisco Bank is committed to working with the Native American community to find solutions to issues that plague lending on tribal lands. Differences in tribal laws and sovereignty constraints make an across-the-board prescriptive solution for Tribal Native American lending nearly impossible.

But I do have some good news, as Congressman Renzi well knows, and that was that balancing Native American sovereignty issues and the lien and foreclosure questions that the bank and its members often face is a challenge to provide a mortgage credit on tribal lands, but we were able to meet that challenge.

For instance, in 1999 and 2000, the San Francisco Bank approved direct AHP subsidies for three rental housing projects on tribal trust lands leased to the project owner by the tribe. At that time, the Federal Housing Finance Board's AHP regulations, that's our regulator, seemed to require that a lien be taken to secure any AHP repayment obligation that might arise in the event of noncompliance with the AHP requirements, including the sale or refinancing of the project.

In order to fund these projects and not violate federal regulations governing the Home Loan Banks, the San Francisco Bank sought a regulatory interpretation from our regulator, the Federal Housing Finance Board, that would clarify that mechanisms other than a lien on the property could be used to secure the AHP repayment obligations. After negotiating with the regulator over a protracted period, in 2003, the San Francisco Bank received a favorable answer, and that's how we were able to fund these projects. These projects are now finally underway.

The Bank continues to work with trade groups and other collaboratives to find creative solutions to address lenders' needs and the rights of tribes on their land. For instance, the Bank works with the National American Indian Housing Council and participated in the development of the One-Stop mortgage process that was talked about earlier to streamline mortgage lending. Obviously, we think that one small step—we would like to take many more steps but we would like to build from what we were able to get accomplished with the Federal Housing Finance Board.

With that, I thank you for letting me participate and look forward to any questions you have.

[The prepared statement of Lawrence H. Parks can be found on page 150 in the appendix.]

Chairman NEY. Thank you.

Mr. PAUL.

STATEMENT OF KENT E. PAUL, CHIEF EXECUTIVE OFFICER, AMERIND RISK MANAGEMENT CORPORATION

Mr. PAUL. Thank you, Chairman Ney and distinguished members of the subcommittee to share my concerns regarding the significant impediments to improving housing opportunities for Native Americans.

My name is Kent Paul, and I am the Chief Executive Officer of AMERIND Risk Corporation, a federal corporation owned and operated by a consortium of Indian tribes and Indian housing authorities, which pool their financial resources to provide self-insurance coverage to protect Indian housing, infrastructure, and individuals and families in Indian country.

My testimony will address two specific topics. First, the inadequacy of affordable and available insurance coverage for homeowners in Indian country and its impact on home mortgages; second, the important role AMERIND plays in protecting Indian housing and the impediments restricting AMERIND's ability to provide even more protection.

The lack of affordable or available insurance. In urban and suburban America, insurance for the most part is readily available from over 1,600 insurance companies. The opposite is true in Indian country. To date, less than five insurance companies provide products or services that meet the needs of Indian communities, tribal governments, reservation businesses and Indian housing.

Since September 11th, 2001, the affordability and availability of insurance in Indian country has deteriorated. In our society, insurance is the oil that lubricates and protects our economic engine. Without insurance, banks will not loan money; consequently, money for investing in new economic enterprises would stay in the bank rather than becoming risk capital; business owners would be hesitant to conduct business; and autos would be parked in the garage.

Why does the private sector turn its back on Indian country? There are several reasons:

One, perceived lack of profit potential due to remoteness of Indian communities, lack of water and inadequate fire protection; two, insufficient number of insurance agents servicing Indian country; three, misunderstanding and fear of tribal sovereignty and tribal courts; lack of uniform tribal commercial laws or business codes amongst the 550 plus federally recognized tribes and an overall perception of Native Americans as poor, unemployed, uneducated and unhealthy.

In any given month, various federal agencies, lending institutions or Indian organizations will provide a seminar or technical assistance programs on the topics of homeownership, mortgage lending, HUD 184 programs, Title VI programs or tax credit projects. Few, if any, of these seminars or programs discuss the role of insurance and financial protection in homeownership; yet, without such coverage, lending will never be provided.

In my opinion, this has been one of the major stumbling blocks to homeownership in Indian country. Consideration needs to be given to "incent" the insurance industry to target Indian country, similar to what banks were under—in the Reorganization Act, or Reinvestment Act, or we need to broaden the 1986 Act to foster more risk pools such as AMERIND.

There is a conflict between the state's oversight of insurance, McCarren Ferguson, and the federal government's role and responsibility of providing affordable, sustainable housing in Indian country.

Some additional recommendations would be to streamline the lending process. Banks unfairly perceive too much difficulty in lending to Native Americans than to non-Natives. There ought to be an established, uniform set of rules or procedures. We need to find ways to minimize the tribes' need to waive sovereignty as part of the lending process. And, last, allow tribes to validate clear title to trust land within their communities with the BIA providing a supporting role rather than a primary role.

The second topic of my testimony is the important role AMERIND has played to encourage homeownership and protecting Indian communities. As I mentioned earlier, AMERIND is a federal corporation owned and operated by a consortium of Indian tribes and Indian Housing Authorities that are dedicated to protecting themselves and their tribal families. AMERIND is owned by 217 tribes and Indian housing authorities, representing over 550 federally recognized tribes from 32 states. AMERIND operates purely on a nonprofit basis. Since its formation in 1986, AMERIND has paid well over $125 million in Indian housing related liability and property claims while at the same time saving tribes and housing development—Housing and Urban Development Department over $100 million in premiums. We have protected more than 70,000 individual homes, more than six and a half billion dollars in property. We provide better terms, conditions, and coverage at nearly one-third the cost of comparable commercial insurance. We've remained financially stable during difficult market conditions and we provide self-insurance coverage for Indian tribes and IHAs located in rural Indian communities where commercial insurance companies have refused to provide coverage.

AMERIND, therefore, is an example of the kind of tribal self-determination that Congress intended to foster when it enacted NAHASDA under 25 U.S.C. 4131.

There are three basic impediments that keep AMERIND from doing more, and we are prepared to do considerably more in Indian country. In Indian country, insurance coverage is often unavailable because of the commercial insurance industries' general lack of interest in doing business there. Tribes and IHAs have recently demonstrated to HUD and Assistant Secretary Michael Liu that, but for AMERIND, insurance for federally-subsidized Indian housing in Indian country would be either unavailable or exorbitantly expensive. This finding corresponds to the reasons why Congress, in the 1991 and the 1992 HUD Appropriations Act, chose to support Indian housing risk pools and to remove counterproductive regulatory barriers to their ability to provide low-cost self-insurance coverage for federally-subsidized Indian housing.

The first impediment is a lack of housing risk pool regulations, and AMERIND is the only Indian Housing Risk Pool in existence and has the distinct status of operating as a federal corporation under Section 17 of the Indian Reorganization Act. All other risk pools, which there are more than 400, are creatures of state law and oversight. Congress intended the creation of housing risk pools as an alternative insurance mechanism and instructed the HUD secretary to issue regulations regarding the same. To date, no such regulations exist.

AMERIND has been working with the HUD secretary and staff to reinstitute rules that were in place under the 1937 Housing Act. AMERIND consistently complied with those rules and regulations until they were withdrawn in 1997 with the passage of NAHASDA. Since 1997, there have been no specific rules that address the requirements of an approved plan of self-insurance for Indian housing risk pools, which places AMERIND in a difficult position. Having no standards by which to judge ourselves causes banks, lending institutions and others to question our viability as a provider of property protection even with HUD's recognition and approval of AMERIND as a provider of self-insurance for Indian housing.

Number two, federal preemption of state insurance law. Currently, the greatest threat to the continued existence of nonprofit, self-funded Indian housing risk pools, such as AMERIND, is not state or federal competitive-bidding requirements, but is unbridled state and tribal insurance regulations. AMERIND currently works in 32 states, representing over 500 tribes. If these states and tribes are permitted to impose their conflicting regulatory schemes and taxes on a nonprofit, self-funded risk pool, the ability of those pools to carry out their congressional mandate to provide low-cost coverage for federally-subsidized Indian housing will be seriously impaired.

AMERIND and the National American Indian Housing Council have therefore requested HUD implement a new regulation establishing uniform federal standards for self-insurance plans.

And the last is number three, a memo of understanding. A great deal of effort has been made to develop coordination between federal departments regarding the One-Stop Shop Mortgage initiative. One failure of the initiative has been to recognize approved providers among the various departments. As indicated earlier, AMERIND is the market of last resort in many Indian communities. Very few, if any, for-profit insurance companies readily offer affordable insurance products in Indian country. For this reason, AMERIND is forced to try and respond to the ever increasing need. We would strongly encourage a memo of understanding between the various federal departments, Fannie Mae and Freddie Mac, that approve the hazard protection afforded by AMERIND. Once specific regulations are established by HUD and AMERIND is deemed to be an approved plan of self-insurance, this approval should be adequate for USDA Rural Development, the Veteran's Administration, and the two largest buyers of mortgages, Fannie Mae and Freddie Mac.

This concludes my remarks.

[The prepared statement of Kent E. Paul can be found on page 153 in the appendix.]

Chairman NEY. Thank you, Mr. Paul.

Next is Captain June Sabatinos.

STATEMENT OF CAPTAIN JUNE SABATINOS, VICE PRESIDENT, AMBULATORY CARE SERVICES, TUBA CITY REGIONAL HEALTH CARE CORPORATION

Ms. SABATINOS. Good afternoon, and welcome to Tuba City. I'm Captain June Sabatinos, vice president of ambulatory care services at the Tuba City Regional Health Care Corporation.

At this time, I would like to introduce our board chair, Eunice Begay; Lena Fowler, who is a board member; and our chief executive officer of the hospital, Mr. Kirk Gray.

I appear before you today on behalf of our organization and I especially appreciate that you were able to go out this morning and visit some of our people in their homes. I'm going to present a slightly different picture for you today, and that is when people have inadequate housing, at some point or other, their healthcare is going to be greatly impacted.

So, I appear before you today on behalf of our organization, which just a year and a half ago was a federal Indian Health Service medical center. Many of our staff continue their federal service through memorandum of agreement with the IHS, but our hospital is now a nonprofit tribal organization, and it is our goal to become a community hospital one day.

Through the Federal Indian Self-Determination Act, Public Law 93-638, our eight-member, all-Indian board of directors separated from the federal government for one specific reason: To bring decision-making about healthcare needs back to the local level where services are provided.

Historically, the federal government has fulfilled its trust responsibility to provide healthcare to Navajos and Hopis since the 1920s. A little house that still stands on Main Street under the cottonwood trees served as the first, six-bed clinic. The first actual hospital, also on Main Street, was built in the 1950s. Our second and third hospitals, which we still use, were built in the '60s and '70s. Today, we are a 73-bed, acute care facility with more than 60 physicians on staff and a total of 749 employees. Throughout the years, Tuba City earned a national reputation for exemplary healthcare within the IHS system. Many of our medical and administrative staff have been with us for 20 years or longer. We serve a current population of more than 35,000 from 11 Indian communities.

Fortunately, our independent status now allows us the freedom to hire more staff as our needs demand. Just last year, our board of directors hired our chief executive officer who brings with him more than 30 years' of experience in healthcare administration. We have also hired our first chief financial officer, a human resources director, a new information technology officer, a new operating room manager, and many others. In fact, my husband and I just recently joined the staff just four weeks ago, transferring from Washington D.C.

I'm here today to inform you of one of our most pressing needs, and that is housing for our hospital staff. If you travelled here from the airport or a motel in Flagstaff, you probably noted the stark beauty of the changing landscape. Most significantly, you traveled at least 75 miles on one of Arizona's most dangerous highways. Every day, approximately 50 to 60 of our employees make the same journey twice a day. Each travels 750 miles per week just to come to work.

The reason our staff, Indian and non-Indian staff alike, spend three hours a day driving, carpooling or taking our hospital van is because we do not have quarters to house them. I appear before you today to ask that you assist us in acquiring additional housing in order for us to meet the expanding healthcare needs of our In-

dian population. Currently, our organization has 258 housing units that are 30 to 40 years old. As vacancies occur, asbestos abatement has to be done. That makes the housing safer for staff but it also increases the waiting time for housing applicants. We currently have no available housing, no vacancies, yet 34 current or potential employees are on a waiting list for housing, and that wait ranges from two to six months.

Since September of 2003, it has become common practice for us to house new employees at the local motels until housing is available. Currently, ten employees live in a motel. As a result of this situation, we have lost a large number of very necessary potential employees. For instance, our laboratory currently has eight medical technologist vacancies. During the past two months, we have lost three potential employees because they have families and they just could not bear the thought of having to spend months in a motel with children.

Currently, there are 16 registered nurse vacancies. If you think that the nursing shortage is bad in the metropolitan areas, it's even more difficult to attract nurses to remote areas. Within the next six weeks, we expect five RNs to start employment and they will be housed in local motels until housing is available. During the past two months, we have lost five registered nurses because of our housing, and three of them were very badly needed operating room nurses.

With the anticipated expansion of our facility and services, it's projected that we will require an additional 150 two- to four-bedroom housing units at an estimated cost of $6 million to house current and projected employees. We would love to have a housing complex like the beautiful housing complex that the Apaches were showing us pictures of earlier testimony.

Our experience has been that when housing is available for our staff, they tend to stay in Tuba City for their entire work career. The large number of professionals who have stayed with us for 20 or more years demonstrates their commitment. It's not easy to come to an area like this to provide healthcare. The people who come are very dedicated. They fall in love with the area and with the people.

Our housing shortage severely hinders us in recruitment and retention of staff. Because we are on a reservation here in Tuba City, each governmental institution has its own housing complex for its own employees. For instance, the public school district has its own teachers' housing. The Bureau of Indian Affairs has its own employee housing. As a former IHS facility, we have the housing that was available for IHS employees. Although the Navajo Housing Authority has low-rent housing in Tuba City, our staff does not generally qualify for its use because of their income level or not being Navajo or not being Native American. Because there is simply not much land available locally to be developed, there is no opportunity for entrepreneurs to build rental housing to meet community needs.

If all of the professionals working in Tuba City working for the various agencies were able to be housed here, it would create a substantial income base for the Navajo Nation and an incentive for business enterprises to locate here.

In summary, community housing is extremely necessary, but housing for our professional staff is equally as important. It is estimated that a 150 2-3 bedroom complex will cost us $6 million to provide housing for our staff. I ask you, is there a way for us to obtain housing for our staff? We generally don't meet the guidelines for housing on Indian reservations. As we expand our healthcare system to meet the demand that we have, it's critical that we have the necessary staff to do this. We cannot meet their demands if we don't have adequate staff. If we don't have adequate housing, we cannot meet the needs of the healthcare professionals.

Thank you for offering us the opportunity to testify today, and we hope that we have provided the committee with the essence of our housing dilemma for healthcare—for housing for our healthcare staff. Thank you.

Chairman NEY. Thank you, Captain Sabatinos.

[The prepared statement of June Sabatinos can be found on page 164 in the appendix.]

Chairman NEY. Mr. Sossamon.

STATEMENT OF RUSSELL SOSSAMON, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. SOSSAMON. Chairman Ney, Ranking Member Waters, Congressman Renzi, Congressman Matheson, on behalf of the members of the National American Indian Housing Council and its board of directors, I would like to thank you for this opportunity to participate in the first-ever Congressional field hearing in Indian country.

As the only national organization dedicated solely to Native American housing, development and advocacy, you can imagine how pleased NAIHC was when you brought this idea forward. My name is Russell Sossamon, and I'm both the Chairman of the National American Indian Housing Council and the Executive Director for the housing authority of the Choctaw Nation of Oklahoma.

Today, I would like to focus on the legislative initiatives we hope this committee will support as well as some of the issues raised by the committee in preparing for this hearing.

The passage of the Native American Housing Assistance and Self-Determination Act, NAHASDA, in 1996 was a giant step forward for Indian housing and the amendments passed in the last Congress with the help of this committee moved us forward toward the goal of providing quality housing for Native Americans. However, challenges remain. For the fourth year in a row, the proposed NAHASDA block grant does not include any increase to reflect inflation in housing prices, increased construction costs, or a growing Indian population. The '05 proposal also zeros out the Rural Housing and Economic Development Program, about $25 million that about 96 entities took advantage of last year, approximately 30 of which were in Indian country.

It also zeros out about $2.5 million for NAIHC to continue to provide its technical assistance and training specifically for tribes, which is designed to build tribal capacity so that they can fully utilize the resources that are available and be creative in financing to meet the housing needs of their tribal peoples.

You heard mentioned earlier about the momentum that's growing in Indian country and about the progress that's being made to

achieve and bring private financing to tribal areas. And you also heard discussed the real possibility of recision of loan guarantee authority. Now is not the time to rescind that authority. We have seen this progress being made over the last three years, and it's a direct result of all the efforts of the people that have been before you here today and are still before you. These efforts are just about to come to fruition, so to eliminate funding or underfund these efforts would be to set us back on what's already been gained.

If you look at it, the mortgage industry has had to be created in Indian country, and we have identified specific barriers. We have narrowed them down to just a few barriers and we have overcome several of them, so now is not the time to pull back.

Also, this flat funding level for NAHASDA makes it all the more important. The tribes who administer this housing program do it as efficiently and flexibly as possible to meet the requirement for data on the effectiveness of the program to insure that our goals are being met and that progress is being made. Second, the short history of NAHASDA also requires us to continue to amend the statute to improve upon what works and eliminate the parts that hinder the delivery of housing.

We understand that Congress has been frustrated with the lack of hard data to support the yearly budget requests for housing. As was pointed out by the chairman, when Congress looks at what we have, all of this money appropriated and then looks at the spend out rates, we share your frustration. You may be aware that last year, HUD's Office of Native American Programs, ONAP, underwent a performance assessment from the Office of Management and Budget. ONAP received a poor score due mainly to its lack and therefore its inability to measure performance, its lack of data and its inability, therefore, to measure performance. Rather than through performance itself. We had hoped this would lead to swift implementation of data collection systems that would allow tribes—to allow for what tribes already know, that this program is working. HUD collects data yearly on Indian housing plans and annual performance reports on such items as the number of overcrowded units, the number of units constructed, the number of housing units rehabilitated.

Unfortunately, HUD still does not have a data base that can pull this data together to give a national picture. This is another symptom of what we see as being a real problem. There needs to be an upgrade in the standardization of not only the computer hardware but the programs used by agencies and that can be accessed and utilized by the private sector at the tribes' request.

While NAHASDA has improved the ability of tribes to serve the housing needs of their tribal members, several requirements of the Act have continued to hamper progress. In response to a call for overall federal housing delivery to Native Americans, Senator Tim Johnson of South Dakota introduced the Native American Housing Enhancement Act of October 2003, which is now cosponsored by Senator Michael Enzi from Wyoming. The bill contains the following provisions:

It amends the 1949 Housing Act which governs USDA housing programs to allow the tribes the same rights to Indian preference as HUD housing programs. It reestablishes the eligibility for tribes

in HUD's Youth Build program. It amends NAHASDA to allow for the establishment of operating reserve accounts for tribes. A technical correction for the treatment of program income under NAHASDA. It also amends NAHASDA to allow for replacing the requirement of charging no more than 30 percent of adjusted income to a ceiling of fair market rents.

As the committee with jurisdiction over Indian housing legislation in the House of Representatives, we hope the Financial Services Committee will support the passage of this legislation before the end of the 108th Congress. This committee has raised several specific issues with NAIHC in preparation for this hearing that were addressed in our detailed written testimony. We are encouraged that two questions have focused on two of the areas that are critical to the success of housing programs, partnerships and leveraging of the first programs and challenges of achieving higher levels of homeownership. With the federal government's main Indian housing program, the Native American Housing Block Grant, only able to produce about 5,000 new units per year nationally, looking to other partnerships is the only way that people can hope to make progress.

And, in fact, the very structure of NAHASDA has a lot to do with an increase in partnership and leveraging. Indian country stands out in its extreme level of need and warrants the investment of resources that can fund a more aggressive and comprehensive approach to solving our problems.

New initiatives in Indian country over the past five years are to numerous to be recorded here, but a list of the partners involved in the provision of Indian housing was included in our written testimony.

Finally, the goal of homeownership is as important to Native Americans as it is to all Americans. Native Americans, with the complications associated with land held in trust and the limited although improving access to financial institutions, have not been historically successful in obtaining mortgages for homes on reservation. We applaud the One-Stop Mortgage Initiative as a step in the right direction and feel that the educational initiatives are vital for both tribes and financial institutions to not only address the complications of doing business on the reservation, but also to see the opportunities.

Before I leave, I'll just remind you of a few things that you're probably already aware of but I think are very important and worth mentioning.

Housing has to be approached on a spectrum. Not all folks are in a position to be homeowners. They are not ready for mortgages. And the very low income people need heavily subsidized housing assistance, and that requires substantial investment. But, it's also our desire to move these folks up on this spectrum of housing, to take them and develop with them their individual housing plans, which is also connected to their economic well-being.

So, while we focus and hear a lot about mortgage financing, let's not forget those who will need more heavily subsidized housing assistance, sometimes as transitory assistance but sometimes as permanent assistance. So I would like to continue to point that out.

Another thing is when we talk about housing, remember, it's the third thing that's listed on the basic hierarchy of human need: Food, clothing and shelter. And as was pointed out earlier, it discounts our efforts in other areas such as education, healthcare, crime prevention and family development if housing is not available. So, what's needed is an adequate investment, federal investment as well as private investment, in Indian country. And if we put up the investment up front, if we can make that investment in the future, it's going to reduce the federal cost burden and will also lead to economic security in Indian areas.

Thank you. I will be glad to answer any questions.

[The prepared statement of Russell Sossamon can be found on page 178 in the appendix.]

Chairman NEY. Thank you, panel.

I had a question for Mr. Paul on the McCarren Ferguson just to clarify. Are you saying that the state regulatory process is hampering the ability to properly do business?

Mr. PAUL. As respects Indian country, McCarren.

Ferguson has an impact on Alaska and Oklahoma because they are people reservations, they are not land-based reservations. So it's tough to distinguish the authority of a tribe to exercise its sovereignty in the area of risk pooling insurance in those two states. So from that extent, it's a problem.

Chairman NEY. As you're aware, we have a federal charter bill that's starting to wind its way through the House committee. Would you see that the federal charter bill, if it passed, would be a help or would it not be?

Mr. PAUL. It would be of help if it has specific information relative to Indian country and recognizes the tribes' abilities to create insurance law.

One of the problems that we see of being the only organization providing hazard protection is a lack of uniform insurance code within Indian country. And with federal help, that would be nice to have that so it's consistent. Or for anybody that does business in Indian country.

Chairman NEY. Thank you.

Ms. WATERS. I would like to thank the panel for the time that you have spent with us today, the information that you shared with us. And I suppose if we had a couple more weeks to spend here, we could have a real in-depth conversation with you about all of this information that you have shared with us today.

I'm going to attempt to ask a few questions of several of you, and I'm going to try and make my questions as concise as I possibly can. And I'm not going to require long answers, and I would hope that you could respond quickly so I could turn the microphone over.

For Fannie Mae, I work very closely with Fannie Mae and I like the fact that they now have the flexibility to have partnerships that can do a lot of creative and innovative things. I want to ask you, given that Fannie Mae has purchased these mortgages on the secondary market and they appear to be working with organizations such as Ms. Konski has identified, because you are so connected to over 112 banks, you have some influence there, why can't you help to get more banks interested in providing mortgages on the reservation?

Ms. GREEN. Congresswoman Waters, I think it is an education process, and that's what we're working through with our Native American Business Council, with our partnership offices that are on the ground working with the lenders on a daily basis, is to educate them more about the process of lending on Native American lands.

Ms. WATERS. Okay. That's good. And what I think probably could happen is given the level of influence you have with these banks, because you're picking up the mortgages on the secondary market, it perhaps would be helpful to identify how you do this, whether it be through holding seminars, or identify maybe 50 to a hundred, have them identify individuals in the banks who will make this a specialty and learn about it so that each of these institutions will have someone that can implement that. I just want to kind of put that into your thinking.

Wells Fargo, how many mortgages have you made here?

Mr. HATATHLIE. Is that in reference to the Navajo Nation?

Ms. WATERS. I beg your pardon?

Mr. HATATHLIE. Reference the Navajo Nation?

Ms. WATERS. Yes.

Mr. HATATHLIE. With the Navajo Nation, recently the Carigan Development Project in Window Rock, St. Michaels, Arizona, we have closed 39 184s and four conventional loans. However, that's fee lands where we can utilize 184 mortgage product.

Ms. WATERS. What lands?

Mr. HATATHLIE. Fee land. It's fee land surrounded by Indian operating area, so it allows us to utilize the 184 program.

Ms. WATERS. I'm really talking about where it's most difficult to do it where it's trust land.

Mr. HATATHLIE. Trust land, we have three transactions that we are about to——

Ms. WATERS. I can't hear you.

Mr. HATATHLIE. Trust land, we have about three transactions about to complete here in Tuba City, which would be a purchase of an existing home, construction to perm financing and—two construction to permanent financing. So three in Tuba City.

Ms. WATERS. I really do appreciate all of the education that you described and the kind of outreach that you're doing, but at some point in time, it really does have to resolve the matter of mortgages in order to move this agenda.

Miss Konski, how do you do it? Can you help us to understand—I have heard some contradictions here today about the ability to make these mortgages based on the land trust questions and whether or not there's one law, tribal law, to deal with foreclosures and all of that. How do you do it?

Ms. KONSKI. Well, obviously, that's the first thing I do look at, is making sure that the tribe is familiar with the One-Stop and also approved that initiative.

I'm sure that the jurisdictions are in place should that become necessary. Okay? So that's the very first thing that has to happen.

The next thing that I have to look at is obviously making sure that the family is really ready to purchase, to qualify for that mortgage, whatever product I'm choosing. Once I sometimes know that

I have that family ready, I then need to look at the issues that come with the particular land that they are going to buy.

Ms. WATERS. Well, what I'm hearing and reading and I'm picking up on is there are a lot of denial and turndown rates in Indian country, Navajo Nation. And someone told me earlier today that some of the turndowns, when you look at them, they look as if they would qualify for conventional loans but they are turned down. And what's absolutely remarkable on some information I just saw is that the foreclosure rate is very low.

So what is happening here?

Ms. KONSKI. I can't answer that because I don't have that many turndowns. My issues don't come down to the family not qualifying for the loan, not when you have that many products and that many funds available to help families. When you put together a combination of, say, NAHASDA funds or the Relocation Act funds, mortgages are possible. Products are possible. I don't have that many turndowns.

One of the things I always tell my family when I begin to work is I can only work as hard as they can work. Sometimes it does take time. In my opinion, the challenges for me come specifically with getting the information from the BIA.

Ms. WATERS. BIA is your biggest obstacle?

Ms. KONSKI. Yes. Biggest obstacle for me is BIA.

Ms. WATERS. So it is possible to do. And if we could expedite the issues with BIA, you could do even better.

Ms. KONSKI. Particularly if you could expedite the issues with BIA.

Ms. WATERS. I understand that you had a recent number of closings.

Ms. KONSKI. Recently, as recently as last week, Friday, I did in fact close nine separate loans for the Cocopah Indian Housing Authority and Development, located in Summerton, Arizona. That represented four tri-plexes and five single-family units, all put together with the Cocopah Indian Housing Development as the borrower. The tribe themselves did the interim financing. My 184 product came in and paid off the permanent loan, paid off the interim financing for the permanent 30-year mortgage.

Ms. WATERS. If it wasn't for the fact that this was a competitive business, I would ask you to teach Wells Fargo and some of the others how to do this. But I know it's competitive, but I am really interested in trying to get that information to others.

Mr. Maryboy, your testimony centered a lot around the need for the private sector to be more involved. But as I see it, the private sector needs to want to be involved. They need to want to do this.

Do you have any suggestions for how to get the private sector more interested?

Mr. MARYBOY. The particular area that you are alluding to is a challenge for the Navajo Nation, and I'm asking Congress to establish a bylaw and to establish a blue ribbon commission to discuss or to research this particular area. But we do believe that there needs to be—this is a problem and a solution needs to be provided in this area.

Ms. WATERS. That's because you think there is some fear of jeopardizing trust lands by getting the private sector involved, and I

think there was some reference to how they did it in Palm Springs? Is that what you're talking about?

Mr. MARYBOY. Something similar like that.

Ms. WATERS. Mr. Parks, there seems to be some contradiction in your testimony about the inability to get involved in picking up the secondary mortgages, I guess, because of the land trust issue. I think there was some discussion in your testimony that you didn't do it.

So what's the contradiction here?

Mr. PARKS. I wouldn't think of it a contradiction, but what I was trying to do from my testimony was to tell you that we had some limited success but it remains a tough thing because we are dealing with this narrow slice of the Affordable Housing Program. It doesn't mean that the other regulators are necessarily going to pick up on the regulatory interpretation of the Federal Housing Finance Board.

And so a lot of the lenders will say, gee, okay, in the case of the Affordable Housing Program, your regulator was allowing you to take something other than title in sovereignty. It's not necessarily the position of OTS, FDIC, or OCC. So when a lender goes to get examined, for instance, there they still may be obstacles they have to overcome.

Ms. WATERS. So the 38 banks that you have some influence on may have a way to do it if we can clear the way.

Mr. PARKS. Sure. I think it still remains one of those fertile grounds. I think what we have right now is the opportunity to build upon something that's been done through the help of the Federal Housing Finance Board.

Ms. WATERS. Mr. Paul, you referred to a memo of understanding, since you are the market of last resort, and since Fannie Mae has given you some kind of acceptance, you're asking why can't you have this memorandum of understanding because you are willing to do it and lot of others are not. What would you have us do?

Mr. PAUL. Correct. It was nice of Fannie Mae to give us a national recognition. Part of the problem in Indian country is we deal with a lot of different lending institutions. And when we are dealing with small community banks or Federal Home Loan Bank or Fannie Mae, we have to go out and consult with them to try and to get them to approve us because we are not an insurance company. We are a self-insurance pool owned by the tribes.

With the approval of Fannie Mae, which reviewed our financial position and has graciously accepted our Indian mortgages purchased on their behalf in which we provide hazard insurance, we were hoping to leverage that with USDA Rural Development, with the Veteran's Administration and the other lenders so that we have one national letter through a mutual understanding between the various departments so it would preclude us from having to go out and deal with every local institution that loaned money and where we provided hazard protection in Indian country. It would be a cost-effective measure.

Ms. WATERS. Thank you.

Miss Sabatinos, I appreciate your testimony but I wanted to get over to Mr. Sossamon to ask about funding.

You believe the key to our ability to develop more housing is the federal government's commitment for funding. Would you just tell us one more time?

Mr. SOSSAMON. Absolutely. Well, beyond the treaty commitments, which I think the treaty commitments were designed to—the federal government had promised to assist Indian tribes, not take us on as welfare recipients.

What we need is, what you see happening in other states and communities, is enough commitment from the federal government to develop our own infrastructure, to allow us at some point to achieve self-sufficiency.

Ms. WATERS. Infrastructure development.

Mr. SOSSAMON. Exactly. Infrastructure. And, also, as I talked about, the Rural Housing and Economic Development Program, these type programs that allow us to create within our own tribal areas a private sector of our tribal members. Because what draws private investment is return on that investment. And with the small profit margins that our infant mortgage industry has to offer at this point, we need to look closer to our own human resources and develop jobs within that private mortgage industry of our tribal people. And that develops our local economy. And not only our mortgage lending industry can be developed, but our tribal construction, private construction can be developed.

And once we start to generate those tribal businesses, and private tribal businesses start to generate income, then the rest of the private market is going to follow suit.

Ms. WATERS. Thank you very much.

Mr. Chairman, thank you for allowing me the extra time.

Chairman NEY. Congressman Renzi.

Mr. RENZI. Thank you, Mr. Chairman.

I want to pose a question to the Honorable Mark Maryboy. The first question—I know we were talking about private investment. Ms. Waters touched on the issue.

Wouldn't it be true that private investors would be able to approach the Navajo Nation if we didn't have this impediment of this business leasing issue? We have heard it touched on today. Isn't that one of the major things we can look at, whether it be legislation to help fix that or working with BIA? If you are approached by private industry, I mean, isn't it an immense amount of time they have to go through in order for them to be able to approve this leasing, Mr. Maryboy?

Mr. MARYBOY. I agree with the statement that you made there, Congressman. I would like to give a brief time to our executive director of NHA, Mr. Chester Carl.

Mr. RENZI. State your name, please, for the record.

Mr. CARL. Again, Chairman Ney and members of the committee, your question is very much to the point.

As you know, the world is ruled by property law, both fiscally and also legally. And so long as you own property, then you have some type of leverage, whether in the private world or the world abroad.

And that's basically what's lacking in Indian country. So long as you don't have true ownership to the land versus the trusts, then you don't have that leverage with a private institution. So, in order

to address that, one of the things that we did related to the mortgage industry is we were able to design a mortgage program that is 100 percent guaranteed by the Navajo Housing Authority and we were able to negotiate with Fannie Mae to get to that point. And that guarantee, we use NAHASDA construction dollars, that's construction financing, and then what we do is we take families that have high debt ratios, high 65 percent, take them through home buyer education and get them done to a lower level to get them qualified. We take families that have no credit history but have dealings with pawn dealers or trading posts, take their records and take that into account to get them qualified.

By doing so, we see this as a bridge to take them from the old assistance program to a more conventional setting. And it's going to take time, but the transition is there.

And what we have done, also, with Fannie Mae is develop an offset reserve account so that if there is an unforeseeable foreclosure, then we are able to take monies out of that account and pay off the delinquency. And the Navajo Housing Authority also provides all the foreclosure process, as well.

So, in addition to many of the stories that you hear, this is one of the ways we can provide that bridge to allow the financing world to come in.

Mr. RENZI. I appreciate your explanation.

I move to Freddie with Wells Fargo. You talked about dealing with first generation home buyers. I know you all have gone out of your way to find methodologies to really push financial counseling, literacy programs. I'm going to ask a question in a minute about why it is that we have $54 million left and we haven't spent it down. Okay.

My intuitions tell me that one of the reasons is because we are dealing with a generation whose fathers and mothers didn't buy homes and teach them how to buy homes. They are having to go through an application process. We learned in the Education Subcommittee that many Native American people never go to college because the application process to go to college is too complicated. And my thought is that maybe it's the same thing for homeownership, that the application process, while regular Americans go online and get mortgages within 48 hours, the application process for Native American people must be a huge stumbling block given if you are the first one in your family who's ever even thought about owning a home.

And so I want to ask you about the successes that you've had with Wells Fargo as it relates to counseling programs or breaking through this impediment, please.

Mr. HATATHLIE. I had mentioned earlier that we have a training program, community development training program for home buyers and counselors and also leveraging and resources, tribal resources, to initiate community development and housing opportunities. That training is in conjunction with the Neighborhood Reinvestment Corporation. So that's how we are addressing that issue, home buyers education. It's designed for tribal leaders, housing entities, lenders, and anyone, practitioners who are involved with lending on trust land. That's how we are addressing that issue.

You also have posed a question as to why do we have so many—so much money available and we are not lending. You know, we could describe how HUD 184 program is set up, how the process works. I have attended training where it says this is what we need to do and, yes, I come back to the Navajo Nation, but what happens is I sit down and meet with a client and we run into lease issues, we run into title status report issues, archaeological clearance, environmental assessments, recordation. By the time you are finished with a client, it is no longer a 60-day deal. It has gone on to two years.

Mr. RENZI. Sixty days being—you have 60 days to access it and then you can't get it.

Mr. HATATHLIE. No. Your traditional to close a loan and fund, you look at it with 60 days. But with Navajo, being it's trust land, it goes beyond that. And by that time, the applicants have pretty much backed out or you're still waiting for a document.

Mr. RENZI. That's a good question. I can hear Ranking Member Waters.

Renee, how do you get around the 60 days?

Ms. KONSKI. I don't get around the 60 day. First of all, on a fee simple transaction, yes, for Freddie and me, both, I think we both agree, we could—normal transaction, fee simple land, you're talking 30 days.

When you're talking trust land and you're talking waiting for your environmentals, waiting for your approved lease, waiting for your title status report, your home buyer education, you're not talking 60 days. You're lucky to be talking a year and a half, two years.

Mr. RENZI. So the 60 days is a lock in the interest rate, right?

Ms. KONSKI. No. There is no such thing as a lock in the interest rate when it comes to Native American lending, which is a whole other ballgame. Traditionally, if I am purchasing a house in Phoenix and I go out and I build this home and now I've taken out this construction loan to develop and build my house, along comes my permanent 30-year mortgage. My 30-year mortgage is going to pay off that house and provide me with a 30-year mortgage.

A lot of the problems that I come up against in dealing with both the Navajo and many of the other reservations as well is we get that construction financing in place, we have the house completed, we are ready to put that permanent mortgage on there and give that family that 30-year fixed mortgage rate. The problem is, before we can complete that transaction, we are again at the mercy of the BIA waiting on that title status report. That title status report is telling us, really, who is the beneficiary of that land or that lease. In order for my mortgage to come in and correct that one, I have to have a correct one in place so I can then close the loan.

Mr. RENZI. Is the BIA title office understaffed and that's the reason for the wait, or is it——

Ms. KONSKI. It is my personal opinion, upon visiting the BIA offices, and more than just one, they do fluctuate between local BIA offices. That's where the problem is. It's the staffing, it's the budget, it's the——

Mr. RENZI. We are going to pay a visit as a result—this is really an idea that deserves credit to Congresswoman Waters. We are going to pay a visit to the BIA offices and see if we can light a fire.

Mr. Sossamon, I appreciate your testimony, sir. We're going to talk about why we haven't spent it. You and Renee have now talked about the fact that $54 million is left in the kitty and we are going to turn it back to the federal government unless we use it, okay? And we are not able to use it because of the impediments and the roadblocks with the titles and the environmentals.

Why do you think we didn't spend it down?

Mr. SOSSAMON. Why do I think we need to spend it down?

Mr. RENZI. Why do you think we weren't able to spend down the $54 million?

Mr. SOSSAMON. Well, a lot of it goes to what we have identified here today. And I hate to pick on the BIA because they are not here to defend themselves, but the problem is—and it was mentioned earlier—that there's a 113-year backlog in getting title status reports. And you just asked do you think they have an adequate staff to deal with that. The answer is no. They cannot deal with processing any kind of title status report request.

So we need to now maybe look at funding to clear up that backlog. And perhaps the way to do it is not add more staff to the BIA, but contract that out to the individual tribes themselves and allow them to establish their own procedures to sort out these records and establish their own title offices that will benefit them in the future. And then it's locally——

Mr. RENZI. Stay there. So you're saying forget building an agency in Washington and all the bureaucratic little arms that go along with it. Give the ability of doing the title searches directly to the Navajo or the Hopi people or the Apache people. And then what would do you? You would move the federal oversight—because it has to be certified, right?

Mr. SOSSAMON. Exactly.

Mr. RENZI. So we would essentially move our people into their location and handle it at the local level? And take the backlog with them, then.

Mr. SOSSAMON. They would have the role of oversight and review, but the actual work would be done right here where the people understand what's going on.

And, also, it goes toward doing what I said we have made great strides towards in the last three years, creating a mortgage industry in Indian country. Not imposing it from outside Indian country, but creating our own mortgage industry.

Mr. RENZI. We are going to make it a reality. We are going to find a way together, bipartisan, to make it happen.

Mr. SOSSOMAN. Thank you.

Mr. RENZI. You're welcome.

I also want to thank Captain June Sabatinos for the visit I paid about two weeks ago to the hospital here in Tuba City. Great facility. We have to bring money home to help. It's one of the best regional facilities I have ever visited, particularly as it relates to the health issues you saw with the children today. We talked, and the reason I asked you to come was a story you told me about the fact we are seeing so much turnover on the staff, the inability to retain good, high-quality people. You talked today in your testimony, three nurses you've just lost in the acute emergency area, if I'm correct. I'm summarizing your testimony.

You also talked about a gentleman you had who was committed to serving the Navajo people who actually lived in a tent for several months. What can we do? Is multiple family housing, if we had a compound for the hospital—many times, when we go overseas, you'll see American interests represented, hospital staffs, teaching staffs, you'll have a housing compound.

Is that kind of a formula possible?

Ms. SABATINOS. Yes. That is what we need, is a housing compound or a complex. We have very limited land that we could put this building on, and we would certainly need the funding to do it, but that would basically meet the needs of our facility.

Mr. RENZI. Thank you.

Finally, I want to point out the good work of the Indigenous Community Enterprise. I know, Freddie, you have worked with them, you serve on the board. We visited a hogan today, we saw the ability for you all to use small diameter wood.

Can you just expand on that just a little bit and talk about some of the, maybe some of the impediments or where we can assist in helping you produce more units for the people? And I also heard that you're also thinking about using multi-family or you're expanding your product base.

Mr. HATATHLIE. Being a board member for Indigenous Community Enterprises, presently, right now, I have tried working with them where we could go through the 184 program. And being that the hogan octagon shapes are not your traditional homes, you know, that HUD would finance, you know, being that it's non-conforming, we had discussions with that to see how we could utilize the log hogans to finance, but we were unable to do that.

We met with the marketing person for Southwest Traditional Log Homes and also the underwriters of HUD, and that's something that's still being discussed. I'm also, Indigenous Community Enterprises is working with a local chapter how they could establish an elderly compound type of homes, and that still is in the works also, too.

So they have really stepped up with the limited funds that they have been utilizing on their part.

Mr. RENZI. Thanks, Freddie.

Thank you, Mr. Chairman.

Chairman NEY. Mr. Matheson.

Mr. MATHESON. Thank you.

This may circle back to an issue we talked about, sort of at the start of the hearing, relative to utilities reaching specific housing.

Mr. Maryboy, I noticed in your discussion about the need for the blue ribbon commission to address these issues and the impact on sovereignty and whatnot, you mentioned something that applies to something as simple as a utility right-of-way. Is that one of the impediments to getting electric lines strung to these houses today.

We were in two different locations today, one was not in the Bennett Freeze, where there is housing and there is local distribution lines within a stone's throw away, and they are not hooked up. Did I understand your testimony that certain rights-of-way, is that one of the impediments?

Mr. MARYBOY. I think the commission could try to oversee the whole array of projects that could be included, utility, roads, and the like.

Mr. MATHESON. It struck all of us as a pretty strange thing to see the electrical lines so close and not hooked up.

Miss Konski, I had a couple questions for you.

You mentioned that a fee simple transaction could be done in maybe three days and then trust lands, two years. We talked about the BIA title issue, and you also mentioned there is the environmental and you're stuck waiting on that for a substantial amount of time.

Are there other factors that cause the delay beyond those two?

Ms. KONSKI. Utilities can sometimes cause a delay. In getting my utilities to my house, they have in the past caused me a small delay. That's a fact.

Mr. MATHESON. You mentioned you completed, was it nine transactions a week ago?

Ms. KONSKI. Correct.

Mr. MATHESON. And they were all 184 loans?

Ms. KONSKI. All 184s.

Mr. MATHESON. Were all of those 100 percent guaranteed 184?

Ms. KONSKI. The 184 is not a full 100 percent guarantee, but it's very close.

Mr. MATHESON. If the percentage of that were to have been dropped lower, would that put those transactions in jeopardy?

Ms. KONSKI. No. It's not my belief it would have. You've got the housing authority, who has just built the houses and put all that money out to build all those homes. They are going to take families, put families in that are going to qualify and assume those mortgages in the near future. If they have the money to go out and build those homes and they are coming in to, say, a 98 percent guarantee—and I'm talking about getting a mortgage for, the housing authority themselves——

Mr. MATHESON. I'm just asking what if it goes lower, to 90?

Ms. KONSKI. Oh, what if it gets—it does get lower. An example of that is a USDA loan. That is a 90 percent guarantee.

Mr. MATHESON. Maybe I'm having trouble articulating my question.

Ms. KONSKI. Are you talking about guaranteeing my mortgage?

Mr. MATHESON. I'm talking about 184 loans, at the guarantee levels that you have now for those transactions you've done. If we are limited, if the word comes out where the 184, those are not allowed to be guaranteed at that level any more, it has dropped down—I don't know if it's 80 or whatever——

Ms. KONSKI. Okay. Proposed.

Mr. MATHESON. Is that going to put those transactions in jeopardy?

Ms. KONSKI. I believe it would have an impact, yes.

Mr. MATHESON. Thank you.

Mr. Parks, I guess I get the impression that the different Federal Home Loan Bank offices have some level of autonomy. Mr. Maryboy's own testimony indicated they like the Seattle Home Loan Bank.

Is there communication between the different offices about products and approaches? Do you talk to Seattle?

Mr. PARKS. What you've got to remember, the Home Loan Banks are all separate entities. The only thing, we are cooperatively owned by our own, individual membership, and the only thing we do is issue debt collectively. There are separate boards, they are actually separate institutions. So you can think of them as 12 separate institutions that have no interaction.

We do talk, and I think what happened was, in Seattle's case, they at one point were more comfortable with the fact that, subject to their regulator's interpretation, with taking a risk. We tend to be a more conservative bank and the culture of our board of directors is if we don't have some certification, we are uncomfortable with that.

So we pursue the route of getting some kind of certification and creating some type of certainty that if, in the worst-case scenario, our regulator is going to find that's okay. And that's what we have found. So that's why they are able to do more.

And everybody has different relationships. We, our relationship to the Navajos is obviously strengthening. Our relationship with other tribes is stronger than with others.

Mr. MATHESON. Well, I appreciate the panel.

Mr. Chairman, I'll give it back.

Chairman NEY. What we will do is I will also note for the record that members may have additional questions for the panel and they may wish to submit them in writing.

Without objection, the hearing record will remain open for 30 days for members to submit written questions to the witnesses and place their response in the record.

And also for the record, if I can read Mr. Johnson's handwriting, bear with me, these will be submitted into the record by these individuals, organizations, or tribes. Rosebud Sioux Tribe, Navajo Partnership for Housing, Arizona Department of Housing, Cameron Chapter of Housing, the testimony of the Blue Tribal Housing Authority, Choctaw Nation Housing Authority, Spirit Lake Housing Authority, Housing Authority of the Village of Winnebago, Lower Brule Sioux Housing Authority, Trenton Indian Housing Authority and Crow Sioux Housing Authority.

[The following information can be found on pages 236, 222, 213, 217, 219, and 235 in the appendix.]

Chairman NEY. Let me see if I can make a few closing remarks before turning it over to my colleagues. Let me just say that I appreciate all three panels and I just think the testimony was well worth the trip here. We see things in D.C., we read about things and we get research, but being here and visiting, going to the locations today, but also being able to get your input today, and the other two panels, is invaluable.

Obviously, we are going to have to go back and look at issues, and I think BIA, it's very clear, is going to have to be looked at. There is also legislation that is pending in Congress where it's going through the system. The federal charter is going to be also important for us to look at as to how it applies, which you've raised an issue has not been discussed at least to my knowledge in Wash-

ington. If we do a federal charter, how does it apply to the Indian nation. I think we need to be cognizant of that.

Home Loan Banks, there is the question of the implication for the entire country, but also the Indian nation. And I think also with Fannie Mae and the flexibility for programs, and if, in fact, some of the legislation being talked about takes that away from Fannie Mae, how this could affect, also, the Indian nation and their ability to devise programs.

So I think there is a lot of other issues now that have come to the surface, but this has been the high note for me, well worth the trip to be here.

Let me also once again thank the entire staff of Financial Services, Tallman Johnson, Cindy Chetti, Jeff Riley, Jaime Alisiga, and also Congressman Renzi's staff, Alix Crockett and Joann Keene, and most of all my colleagues and Walter—I'm sorry, Walter Phelps.

But let me just say that Congressman Matheson, I appreciate all of your work on this issue, your diligent work. And I can't speak enough for our ranking member, Ms. Waters of California, who has been so patient to go through how many hearings in the House subcommittee and yet still has a smile. So her work has been invaluable and her concern and caring for many, many issues and, obviously, this one in particular. And also Chairman Mike Oxley and Ranking Member Barney Frank, who also made this possible.

And last but not least, my colleague Congressman Renzi, who makes all of us aware every day in the U.S. Capitol about concerns of the Indian nation. I appreciate his idea to do this.

Ms. WATERS. Thank you very much, Mr. Chairman. First, I'd like to thank you for holding this hearing. This absolutely could not happen without you. Your willingness to come here and to put your staff to work, to organize this hearing, is commendable, and I'm delighted that I have had the opportunity to be here today to learn more and to understand better what we can do in Congress. So, again, I would like to thank you.

I'd also like to thank Congressman Renzi, because I know that it's his advocacy and his request to you that caused you to respond. We have talked about this, Congressman Renzi and I, on any number of occasions. We have talked about the plight of Native Americans. He's described this to me in conversations, but I had to come here to see it, and I thank you for giving me that opportunity. I'm delighted to be here with you.

Let me just say to our audience here today, I have traveled extensively and I have traveled extensively to many third world countries, and what I saw today is similar to what I've seen in some of the most impoverished areas of the world. What I saw today is synonymous with what I saw when I first visited the "Bountosawns" in South Africa, and it's appalling. It's unacceptable, and we must use whatever power we have in Congress to change the plight of Native Americans here and everywhere.

I would like to just close by saying I represent a rather diverse district. One area of my district is a poor area, but it is heaven compared to what I saw here today. When you hear discussions about South Los Angeles and people who are in poverty, I want to tell you, again, when you compare it to what I saw today, it's al-

most as if those people who are described as living in poverty live in luxury. This is absolutely unconscionable.

So being here today helps me to know how I can better support changing the ability for Native Americans and for the Navajo Nation to do something.

What's encouraging about all of this is the resources that are here. We have the possibility to do this. It appears that there's too much bureaucracy. I think perhaps there are some people who may have gotten a little bit soft on the job and they aren't doing everything that they could do. I don't know. I don't know, but I think we need to figure that out. And, clearly, the Bureau of Indian Affairs should have been here today. The fact that they are not here means that I know Mr. Renzi and my chairman is going to not only talk about paying them a visit, but maybe helping them to understand that if you don't utilize the power that's given to you, maybe you don't need to keep it. So, I'll just put that out there.

So with that, I'd like to give the microphone back because I know Mr. Matheson, Congressman Matheson has a lot that he would like to say. On the way here, he was describing to me his challenges and how he borders this entire state and what he's trying to do. So with the two of these gentlemen working together representing both sides of the aisle and engaging all of us, I am extremely optimistic, no matter how difficult it gets.

Again, I would like to thank you, Mr. Chairman.

Mr. MATHESON. Well, I don't have a lot to say, fortunately. But I often like to tell people that it's always good to get out of Washington D.C. And spend time in the real world, and I think that's what we have had a chance to do today. And I think it's been a great experience for me and I suspect for everyone else here on the committee.

But I want to thank all of you for coming today. I think it's really important that in this system of democracy, we participate, and I thank you for taking your time to do that. I have learned a lot today and I want this process to continue.

But it's my pledge, and I think I speak for everybody, it's our pledge that we are going to work the best we can to make progress on all these issues.

Chairman NEY. Thank you. We will give closing comments to Congressman Renzi.

Mr. RENZI. Thank you for letting me wrap up.

I want to begin by thanking everyone here who has sat through a four-and-a-half, five-hour hearing, those of you who came out from the community, taking time away from your families and businesses and obligations to share with us, all the panels and their testimony, some of it very riveting. It's true patriotism to engage in the great debate, and I thank you very much.

I have to thank Chairman Ney. The idea of making history, him allowing us to come out here, him making history and bringing all of us with him, to have for the first time Congress address Native American Indian housing issues in the field truly is historic. It took his leadership to get it done.

I have been to many hearings in the past. I have never been to a hearing where Republicans and Democrats came together so well. I want to thank Ranking Member Congresswoman Maxine Waters

from California. I was so surprised to think that we got together to see the conditions because it's so severe out there that over the years to come, as we're wrestling with this, whether you be Republican or Democrat, or who is in control of the House or who is in power—I whispered to Ranking Member Waters that maybe some day, you know, if you guys are in power, at least you'll have been able to see firsthand the conditions. So it doesn't matter who is in power. We will work together to get through the issues.

And my neighbor to the north, Jim Matheson, Congressman Matheson, has been a great friend in Washington. We work hard together on the issues as it relates to housing. He is taking such a wonderful lead on the issues relating to uranium. We are looking to have a workshop together in Washington as it relates to those issues.

If you would allow me, please, there is a couple people I want to acknowledge. I want to acknowledge the members of the Assisted Independence Program here in Tuba City. I know you have strong concerns today. I wish I had done more to acknowledge you earlier on. I'm thankful I had a chance to talk to you briefly. My Window Rock office, Walter Phelps, my personal assistant Joann Keene and myself personally will meet you with and in future endeavors we would like to hear your testimony publicly.

I also want to acknowledge a friend who is—a couple friends who are with us today. As many of you are aware, we lost Lori Piestewa, the first Native American ever killed in combat. And Terry and Percy Piestewa and Lori's two children, Brandon and Carla, have sat through the last hour and a half hour of this hearing. They are beautiful people. Terry and Percy, if you would stand up and be acknowledged.

I think Lori would be proud that we are here today in her hometown. Lori represents the warrior spirit of the Hopi and the Navajo people. The women of their ancestry would stand next to their men and fight. They did not flee. And Lori represents that tradition and she deserves to have a mountain named after her, let me tell you.

Also, in closing, let me say this. I want to say thank you to Mr. Andrew Todd, who is the superintendent of the Greyhills High School where we stayed today. And he was such a great hope, showed great hospitality.

And, finally, to the staff of the Navajo Housing Authority for your housing, your refreshments, the information booths you set out today. Thank you all very much for being with us today. In my opinion, you are all true patriots. May God bless you. Thank you.

Thank you, Mr. Chairman.

Chairman NEY. We are adjourned.

[Whereupon the subcommittee was adjourned.]

A P P E N D I X

May 3, 2004

Opening Statement
Of
Congressman Bob Ney
Chairman, Subcommittee on Housing and Community Opportunity

"Improving Housing Opportunities for Native Americans"

May 3, 2004

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1. Today is an historic day for the Subcommittee on Housing and Community Opportunity. As Chairman, it is my honor to preside over today's proceedings, which is the first time this Subcommittee has held a hearing on tribal land.

2. Presently, Native American population is estimated at 2.5 million. While the national poverty rate is 12 percent, the rate among Native Americans is more that twice as high. Forty-five percent of all Native American households are located on tribal lands, and housing is one of the most pressing issues for Native Americans living on tribal lands.

3. Over 32.5% of the homes located on tribal lands are overcrowded; 7.5 percent of Native American homes lack safe water and sewage systems; less than 50 percent of homes on reservations are connected to public sewer systems, and 16.5 percent of homes on native lands are completely without indoor pluming.

4. About 40 percent of tribal homes are considered substandard compared to a national average of six percent.

5. Native Americans today are experiencing chronic housing affordability problems. Approximately half of Native American households in tribal areas pay over 30 percent of their income for housing expenses compared to the 23 percent of all U.S. residents who pay more that 30 percent of their income for housing expenses.

6. Much of this is due to the unique relationships Indian tribes have with the U.S. government. Native Americans residing on reservations are U.S. citizens, but their tribes are recognized as domestic sovereign nations with treaty relationships with the U.S. government.

7. The fact that the Bureau of Indian Affairs (BIA) holds much of the land in trust means that tribes are allowed only limited sovereignty over their lands. This special relationship limits the types of economic activity for which Indian lands may be used.

8. One of the important cornerstones to a strong community is homeownership. It creates stability and serves as a strong economic staple in our overall U.S. economy. While the national homeownership rate has steadily risen and is at an all-time high of over 68 percent, there are sectors of the population for whom homeownership remains unattainable.

9. In fact, the homeownership rate for Native Americans is well below 50 percent. Clearly, more can and should be done to help all families realize the dream of owning a home.

10. The changing land status issues, diversity of tribal laws and governments, lack of mortgage information, and credit issues all contribute to the challenges in mortgage lending in Indian Country.

11. Developmental programs delivered to Indian Country should be highly flexible and adaptive to the very unique and specific circumstance in each tribal setting. Native Americans must be able to take full advantage of partnering and leveraging efforts across institutions and at all levels of government.

12. If we begin to succeed at these initiatives, then opportunities will move into these rural areas.

13. As we work to help strengthen homeownership opportunities in Indian Country, together we will all continue to play a significant role in improving the quality of life for all families.

Opening Statement of Representative Jim Matheson (UT-02)
House Financial Services Committee
Subcommittee on Housing and Community Opportunity
Field Hearing entitled "Improving Housing Opportunities for Native Americans"
Navajo Nation - Tuba City, Arizona
May 3, 2004

Mr. Chairman, thank you for holding this subcommittee field hearing regarding ways to improve housing opportunities for Native Americans. I am pleased to join you, Ranking Member Waters, and Mr. Renzi for this very important hearing. I look forward to hearing the testimony from this distinguished group of witnesses. I would especially like to welcome my constituent, Mr. Mark Maryboy, Delegate from Utah on the Navajo Nation Council and former San Juan County, Utah Commissioner.

Many Native Americans continue to live in appalling housing conditions even as those in much of the nation have improved. According to the Senate Committee on Indian Affairs, American Indian and Alaska Native populations live in housing that is often and justifiably compared to third world nations. One out of every five Indian homes lacks complete plumbing facilities. Over 90,000 American Indians and Alaska Natives are homeless or underhoused (Senate Committee on Indian Affairs, Report to Accompany S.401, September 8, 1999).

I have had the opportunity to see firsthand the need for Housing in Indian Country when I visited the Utah portion of the Navajo Nation, which I represent in Congress. I met with families and individuals who expressed their frustration with the process of

building and owning a home on tribal lands. My constituents have raised a number of challenges to home ownership including duplicative tribal and federal bureaucracy of obtaining homesite leases, trust status of tribal lands, lack of basic electrical and water delivery systems, lack of roads, and the difficulties individuals face in trying to obtain conventional mortgages.

During my tour of the Utah portion of the Navajo Nation, I was impressed by one grassroots non-profit organization, Indigenous Community Enterprises', collaborative approach to addressing housing needs of the often forgotten Navajo elders. Utilizing a Native American Housing Assistance and Self Determination Act (NAHASDA) subgrant and local resources, including the Monument Valley High School vocational students and Utah Navajo Trust Fund financial support, ICE constructed an elder hogan home that will be traditionally blessed this Friday, May 7, 2004. The ICE elder hogan home incorporates the traditional octagon hogan in its design. The design respects the traditional space but adds the basic amenities of a modern kitchen and bathroom.

ICE employs a community-based approach of personal responsibility and capacity building to build hogan homes. Collaborating with local high schools, Navajo Nation entities, banks, and community and family members, ICE seeks to address the underlying problems to homeownership on the Navajo Reservation by not only construction of a hogan home but by offering financial literacy, Individual Development Account savings programs, homeownership skills, and limited credit counseling. Additionally, ICE uses small diameter timber from the regional forest thinning and is moving towards using straw bale products that can be manufactured from the Navajo Agriculture Products Industry. Innovative ways to provide homes, the use of local resources, and ensuring that

individuals have the necessary financial knowledge and skills can make homeownership a reality in Indian Country. We can no longer look toward any government to simply provide homes. It will require innovative, collaborative efforts, such as this, to address the housing needs that I witnessed on the Navajo Nation. It will also require a deeper understanding of all parties involved of the true obstacles to adequate housing, be they a lack of infrastructure, supply, mortgage products, or incentives to build.

Again, Mr. Chairman, thank you for holding this important hearing today. I look forward to hearing from each panel to further my understanding of the issues that the Federal government, tribal governments, housing entities, and financial institutions face in addressing the Housing shortage in Indian Country. I look forward to hearing their recommendations for improving housing opportunities for Native Americans and I look forward to working with my colleagues to implement any necessary legislative solutions. Thank you.

Today I look forward to discussing the successes, pitfalls and future goals of Indian housing programs, building partnerships, and finding new ways to help our governments work together to ensure future generations do not grow up in unacceptable conditions. And there are successes, like Apache Dawn, a housing project by the White Mountain Apaches. With a creative blend of financing they have provided 300 units of affordable housing.

My education in Indian country has been sobering. But it also brings a focus and a sense of mission to my work in Congress. To provide a voice to those without one in Washington, to be a representative who will work to return equality to the first nations of the land.

I thank you all for being here today. I believe that our united efforts are important and together we can work to provide a healthier, safer, more productive and prosperous future for everyone.

Statement for the 5/03/04
Housing Subcommittee
Native American Housing
Field Hearing

Good afternoon, Ladies and Gentlemen. I'm very pleased to be here in Tuba City to participate in the first hearing on Native American housing issues held on Navajo land, and I want to thank Chairman Ney for scheduling this field hearing. At the same time, I'm very troubled, as I'm sure that the other Members are, by some of what we saw on our tour this morning.

I'm equally concerned about the many barriers that Native Americans face when they seek to pursue homeownership. Whether the barriers stem from Native American poverty or from the heavy hand of the bureaucracy at the Bureau of Indian Affairs when prospective homeowners seek BIA approvals, we cannot accept a process that produces so many fewer opportunities for Native Americans to own their homes and thereby build wealth than for others who live in America.

While I know that you sought the BIA's appearance at this hearing, I am disappointed that the Bureau of Indian Affairs is not represented on one of the panels today. This government agency, more than any other, needs to step up to the plate and work together with the Tribes, HUD, RHS, and the secondary market to formulate solutions to the housing problem on Native American lands.

While I am glad that we are discussing the significant housing challenges faced by Native Americans, I hope the Bush Administration will work with Congress to increase appropriations for existing housing programs. The proposed budget cuts for FY 2005 are simply unacceptable.

I look forward to the insights of our witnesses, especially our tribal witnesses, as to how we can develop solutions that meet your needs for housing and homeownership opportunities while respecting your culture and your sovereignty.

Mr. Chairman, when land was taken from Native American tribes, the United States gave its solemn promise to protect the rights of the tribes to govern themselves and to provide for the health, education and well being of tribes. That commitment, the "trust responsibility" is not a hand-out but a contract – a contract that unfortunately has been broken time and time again by the federal government.

I believe that an essential element of the Federal government's trust responsibility is that it must take the steps necessary to make homeownership opportunities as available to the members of tribes as they are to the rest of America's population. With a Native American homeownership rate of only about 33% as compared to an overall homeownership rate approaching 68%, it's clear that much work remains to be done.

The Native American population is one of the fastest growing groups in the United States. Unfortunately, it also is one of the poorest segments. According to the U.S. Census Current Population Survey, the poverty rate of Native Americans in the late 1990s was 26 percent while the national average was 12 percent. By any calculation, increases in population are creating housing needs, which continue to far outpace the funding that we are providing.

While land and home are viewed as central to family life in the Navajo culture, the housing problems of the Navajo Nation are nonetheless particularly severe. The Navajo Nation is the largest reservation in the country. It covers over 16 million acres (in three states) and is the size of West Virginia. There are 255,543 enrolled members of the tribe, about 180,000 living on tribal

land. The median age is 22.5 years.

According to the 2000/2001 Comprehensive Economic Development Strategy report from the Native Nation Office on Economic Development, 56.1% of Navajo people live below the poverty level, the per capital income is $6,217, and the unemployment rate is 43.65 percent. Some 31% of the homes on the reservation lack complete plumbing and 60% lack telephone service. About one fifth of owner occupied units on the reservation are mobile homes.

The development of housing on the Navajo Nation is even more complicated than it is on other reservations as 94% of Navajo land is tribal trust land, the most difficult type of land to develop.

Mr. Chairman, strong communities are built one home at a time. To strengthen reservation communities we must provide safe, decent, affordable housing for all families living in them. Today, approximately 40 percent of all reservation housing is inadequate. Twenty percent do not even have plumbing.

Mr. Chairman, the unmet housing needs in Indian Country are simply enormous. HUD at one point estimated that current NAHASDA funding levels would only meet five percent of Native Americans' need for housing.

Thus, it is inexplicable to me, and frankly inexcusable, that, in the face of such overwhelming needs, the Bush Administration would propose cuts to the NAHASDA program. The president's budget would have cut the Native American Housing Block Grant by $3 million. The Indian Housing Loan Guarantee Fund Program also would have lost almost all of its funding.

Tribes also would suffer from the cuts proposed by the Administration in the overall Rural Housing Service budget. The Administration proposed a $300 million cut in the single-family loan program (Section 502) and a $70 million reduction in the direct rental program (Section 515).

Despite increased demand for the programs, the Administration's FY 2005 budget proposes to rescind $33 million in the Section 184 single-family loan guarantee program and $21 million in the Title VI loan guarantee program. Incredibly, it also proposed to reduce the loan guarantee percentage for the Title VI program from 95% to 80%, a change that surely will make this program less attractive to lenders.

Thank you, Mr. Chairman.

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For Release only by the
House Committee on Financial Services

Statement of

Gilbert G. Gonzalez, Acting Under Secretary
USDA Rural Development

Before the

House Committee on Financial Services
Subcommittee on Housing and Community Opportunity

Hearing on
Improving Housing Opportunities for Native Americans

Tuba City, Arizona
May 3, 2004

Mr. Chairman, Members of the Committee, thank you for this opportunity to discuss the ways in which USDA Rural Development helps improve housing opportunities for Native Americans.

For those who may not be familiar with USDA Rural Development, our mission is to increase economic opportunity and improve the quality of life in rural communities. Rural Development is the only Federal organization that can essentially build a town from the ground up through investments in infrastructure, homeownership and job creation through business development programs. We help rural Americans achieve their part of the American Dream.

One of the cornerstones of this Administration's commitment to rural America is homeownership. A safe, secure home is the foundation for the family unit and owning a home is the oldest and best form of building equity. I am proud of the fact that Rural Development has invested over $10.2 billion in the last three years in single family housing, which supports the President's Minority Homeownership Initiative.

As a result of President Bush's Minority Homeownership Initiative to increase homeownership, including minority homeownership, USDA Rural Development initiated a "Five Star Commitment" in October of 2002 to expand rural minority homeownership through programs aimed at removing barriers to homeownership that many rural families face. This Commitment has the following 5 major components:

- Doubling the Number of Self-Help Participants by 2010
- Increasing Participation by Minority Lenders through Outreach
- Lowering Fees to Reduce Barriers to Minority Homeownership
- Promoting Credit Counseling and Homeownership Education
- Monitoring Lending Activities to Ensure 10 Percent Increase in Minority Homeownership

Since announcing the Five Star Commitment, USDA has:

- Awarded a total of $40 million in Self-Help Housing grants in FY 2003 which was the best year ever for the program. Demand for funding continues to grow. There were 46 "pre-development" grants awarded in FY 2002-2003, including many first-time sponsors and groups in states with no Self-Help programs.
- Entered into a Memorandum of Agreement with the Federal Deposit Insurance Corporation (FDIC) to promote and utilize their "Money Smart" training program. FDIC assisted us by providing training to all of our State Offices on delivery of this valuable financial literacy program.
- Last year, we lowered the fee for the guaranteed loan program. This change, coupled with record low interest rates, has increased demand for the program. The fee is less than 2 percent. The Administration's FY 2005 budget proposes to maintain this level and couple it with legislation that will allow us to include the entire fee in the loan. The fee will help reduce government outlays and the accompanying legislative proposal ensures that families will not be adversely impacted.
- Worked with individual State goals to work toward the goal of increasing rural homeownership, including minority homeownership through our direct and guaranteed programs. All States have developed an individual plan to increase minority homeownership and to expand the availability of the Self-Help program. Rural Development met its overall goal for FY 2003. We are on target for FY 2004.

The success of this Five-Star Commitment has been felt throughout the country.

Let me discuss the various housing options we provide to Native Americans.

Single Family Housing Programs

Single Family Housing (SFH) direct loans are for families seeking financial assistance to purchase (existing or new construction), repair, or improve a home. This program is for families of very low or low-income and contains an interest subsidy to those who qualify. Funds can be used as down payment assistance to enable purchase with a loan through a private lending source or as a sole source of assistance.

Since FY 2000, we have made 224 direct loans per year to Native Americans. Approximately 40 per year are made on tribal trust or allotted lands. As a result of our Five Star Commitment, 268 direct loans totaling over $19.5 million were financed in fiscal year 2003, representing a 20 percent increase.

Single Family Housing guarantees encourage private lenders to provide the financing for low and moderate-income families to own their own homes. Again, as a result of our Five Star Commitment, the number of guaranteed loans to Native Americans has risen from an average of 200 per year for fiscal years2000-2002 to 282 loans, totaling over $24.5 million in FY 2003.

Indian Reservations often lack the availability of the traditional industry housing providers such as real estate agents, appraisers, contractors, developers and suppliers. For this reason, the role of the tribal housing authorities and tribal non-profits, such as the Navajo Partnership for Housing in Arizona or the Oglala Sioux Tribal Partnership for Housing in South Dakota, are very important in working with the prospective homeowners and lenders. Together, we provide homeownership education, application completion assistance, and assistance during construction development phase of the process. Without their assistance, it is very difficult for our agency or any other

mortgage lender to deliver an effective housing program to tribal members living on the more remote Indian Reservations. The increase in our SFH direct and guaranteed loans, as well as our Home Repair loans and grants could not have happened without the constructive relationships that we have developed with these types of organizations.

Home Repair loans and grants are designed for very low-income individuals for making repairs, installing essential features, or to remove health and safety hazards. The maximum loan is $20,000 at 1 percent and the lifetime grant maximum is $7,500. The grant is available to persons at least 62 years old and unable to repay a loan.

This program has been very heavily used in tribal communities. In FY 2000, we provided about $700,000 and repaired 140 homes, of which 52 were on tribal trust or allotted lands. Over the past three fiscal years, we provided an average of $1.7 million per year and repaired 305 homes, of which 105 have been on tribal trust or allotted lands. The reason for this significant increase after FY 2000, especially the number of loans on tribal trust and allotted lands, was due in part to an increase of the note only feature from a maximum loan amount of $2,500 to $7,500. This increase eliminated the obstacle of an often-lengthy process to obtain mortgages on leasehold interests of tribal trust and allotted lands for loans now less than $7,500.

Here is an example of the importance of our Home Repair program. A Navajo Nation elderly couple applied for assistance to repair their home. It was in extremely poor shape with poor electrical wiring, plumbing in a non-operating condition and general condition of the structure in a severely deteriorating stage. The home needed immediate attention and presented hazardous living conditions.

Rural Development provided both a loan and a grant, and worked with the Navajo Partnership for Housing to fund the balance of funds necessary to repair the home. This was the first time the Navajo Partnership for Housing had provided funding of this type and has resulted in a loan program by them to facilitate other rehab projects across the Navajo Nation. The elderly couple is now able to live in a safe and sanitary home.

Housing Preservation grants are available to tribes, non-profit organizations, state agencies, and units of local government for single-family housing and apartment rehabilitation. These grants are made to rural recipients who will serve very low and low-income individuals. The average amount of grants per year provided to Native American entities since FY 2001 has been $458,000. Awards have been made to 8 different grantees, enabling them to help preserve an average of 112 units per year.

Self-Help Technical Assistance grants are made to organizations to pay for the cost of developing and administering a program of technical and supervisory assistance to aid the very low and low-income families to build their own homes. The dual purpose of this program is to work with families who otherwise would not qualify as homeowners and help those families learn skills of maintaining a home by participating in its construction. This program is also one of the initiatives of the Five Star Commitment to increase minority homeownership.

Rural Development has five Self-Help grantees operating on tribal lands to build homes this coming summer. They will work with 43 Native American families who will build their own homes on tribal lands. We have another 4 tribal organizations that we have provided pre-development grants to begin developing their projects to the final grant application.

Technical and Supervisory Assistance (TSA) grants are provided to organizations that intend to work with very low and low-income families, assisting them with loan qualifications, application packaging and housing development. Typical grants have been in the area of $75,000 over a two-year period.

We have made 2 TSA grants to tribal non-profit organizations that serve tribal communities, as well as 1 other grant to a national non-profit that serves another 4 tribes. The services provided by these grants also contribute to the Five Star Commitment by providing homeownership education as well as assisting in the packaging of mortgage applications.

Multi-Family Rental Programs (MFH)

The Multi-Family Housing (MFH) direct loan program is used to fund projects that will provide rental units to individuals, families, and elderly with very low, low, and moderate incomes. In order to make the rent payments affordable, the loan has interest credit available, and in many cases Rental Assistance. This makes the rental units affordable to even those families and elderly of very low incomes.

We give a priority to project applications from Indian tribes and on tribal reservations by providing 20 additional points for applications from federally recognized tribes. We also give another 20 points if the tribe plans to use Native American Housing Assistance and Self-Determination Act (NAHASDA) funds for at least 5 percent of the project cost.

Over the past three fiscal years, Rural Development has provided funding to tribes or entities servicing tribal individuals in the amount of $32.3 million. This funding has

helped provide 32 different properties and created a total of 540 rental units. On three Reservations in Arizona, we have funded 10 MFH properties to provide 274 individual living units. All of these units have Rental Assistance available. Of these 10 properties, 6 are on the Navajo Reservation with 184 units, 3 properties are on the White Mountain Apache Reservation and have 66 units, and 1 property is on the Cocopah Reservation with has 24 units.

The MFH program also has a loan guarantee program to serve the rental housing needs of low and moderate-income households. Funds may be used for new construction or rehabilitation of existing properties. Guarantees may also be used in conjunction with other subsidy programs, such as the Low-income Tax Credit, (HOME), NAHASDA, and State Rental Assistance programs. We have guaranteed 6 loans in the amount of $11.7 million dollars on the Navajo Lands that are providing affordable housing to 373 Native American families.

Other Rural Development Assistance

Rural Development works at the national, state, and local levels to provide financial and technical assistance directly to tribal governments, organizations, non-profits, and individuals. We have dramatically increased investments over the past three years in tribal housing, infrastructure, community facilities, and economic development.

Since FY 2000, the Bush Administration has doubled its investments to American Indian and Alaskan Native communities and individuals. In FY 2000, we provided approximately $115 million to tribal communities and individuals. In fiscal years 2001,

2002, and 2003 we provided approximately $177 million, $191 million and $234 million respectively.

While Rural Development does not have any programs exclusively for American Indians and Alaskan Natives, we have had an increase of appropriations specifically dedicated to tribal communities from $12 million in FY 2000 to $24 million in FY's 2002, 2003, and 2004. We have received appropriations dedicated exclusively to tribal communities of $16 million for Water and Waste programs, $4 million to Tribal Colleges, and $4 million for business development programs.

In our water and wastewater loan and grant programs, program activity has significantly increased over the last three years. From 1995-2000, obligations to tribes totaled approximately $124 million, which funded 120 different tribal projects. During the last three fiscal years alone, funding has increased to $166 million for 181 different projects. We had a record investment in FY 2002 of $62.8 million for 70 American Indian and Alaskan Native tribal projects. To date, we have funded water and wastewater programs to almost 200 tribal communities.

Our telecommunications program provides funds to non-tribal exchange carriers that generally serve tribal and non-tribal communities in their service area. Rural Development has provided funding to 6 tribally owned telecommunications companies in the nation.

In FY 2003, of the 300 applications for broadband grants, 13 of the 40 applications selected for funding were tribal entities or organizations that will be serving exclusively a tribal community. In FY 2003, 15 distance learning and telemedicine projects to tribal organizations were also funded, totaling $9.3 million.

Through the business and cooperative programs of Rural Development, we provide financial and technical resources to tribes and tribal entities to fund the development of small and emerging private businesses. We also provide business and industry guaranteed loans to tribes and tribal individuals to improve, develop, or finance business, industry, and employment, and improve the overall economic environment in rural and tribal communities.

In FY 2003, we provided over $31 million in economic development projects to tribal entities and individuals. 52 of these were grants and low-interest revolving loan funds to tribal organizations for projects designed to foster small and emerging business growth on reservations. 16 were for guaranteed loans to Native American individuals for larger business enterprises.

The amount of activity by tribes accessing community facility loans and grants has also increased dramatically in the past three years. In FY 2000, 28 projects totaling $7.3 million were funded. In FY 2001, Rural Development had a substantial increase in activity with 88 tribal projects for over $32 million. In FY 2002, we provided funding for 50 projects for almost $19 million. In FY 2003, we provided funding for 52 projects totaling over $48 million. In part, the large increase in funding to tribes in FY 2001 was attributed to a new Economic Impact Initiative, which had a program allocation that year of $50 million. Another source of the increase was the new Tribal College set-aside of $4 million.

As more Native American families wish to return to their tribal communities, and the tribal housing authorities, housing nonprofits, and others organizations begin to develop projects to support the demand for housing, it is paramount that the necessary

supportive community facilities, services and emergency response systems are put in place in concert with the overall development. Working with tribes to develop this balance for supportive community services, Rural Development has provided financing for a very broad range of projects from as small as a single police car for $30,000 to a variety of projects including our largest guaranteed community facility loan to date for a new K-12 school.

With the kind of community development that Rural Development is able to provide in Indian communities, along with the other financial and educational resources, the stage is being set for tribal communities to support more housing and the supportive services that families need for a better quality of life.

Rural Development Partnerships

We recognize that the Federal Government has an obligation, based upon a long history of Trust responsibility, to provide assistance to tribes and tribal communities. Our goal is to help them develop and have the same economic opportunities and quality of life as other segments of our society. At the same time, we fully recognize the limitations of the Federal Government's capital resources, and the value of private sector forces in fostering lasting development. Our role must include serving as a catalyst to leveraging private and other public sector funding.

The amount of money needed to address these issues will require a joint venture by many parties, including the Federal Government, State and local governments, tribal resources, nonprofits, foundations, and most private sector capital. The needs of tribal communities in the areas of housing and the supportive infrastructure, community

facilities and services, and economic development, are more than what any one financial resource is able to deliver. We must all work together in a cooperative and collaborative effort to find methods of more efficiently and effectively helping support tribal communities.

We continue to foster additional partnerships to leverage our financial and human resources. Rural Development has been an active partner in several interagency, intertribal, and public sector working groups that have a common objective of working with tribes.

National Level

- Rural Development is a member of an Interagency Taskforce on Infrastructure, along with the Indian Health Services, Environmental Protection Agency, Housing and Urban Development's Office of Native American Programs, Bureau of Indian Affairs, the National American Indian Housing Council, and several tribes and tribal organizations. We conduct monthly meetings to review programs, success stories, set up tribal training programs, and research ways in which we can more effectively work together in Indian communities. As a result of this Taskforce, we are presently developing an Interagency Memorandum of Understanding (MOU) to facilitate the coordination of program delivery between the respective agencies. We also have tribes involved in the process to ensure that the end product is something that will fit their needs.
- Rural Development entered into an MOU with the Indian Health Service to better coordinate the delivery of our jointly funded water and wastewater projects with tribes. We believe this MOU is a successful model of interagency cooperation that gives one agency the lead role for project development, environmental clearances and project funds management. It is a national MOU, but allows for local interagency modifications to fit the specific needs of the project being funded.

- We are a member of the National American Indian Housing Council's (NAIHC) Mortgage Lending Partnership. This partnership is comprised of federal agencies, major private lenders, such as Fannie Mae of the secondary mortgage market, and nonprofit entities that provide mortgage financing on Indian lands. The purpose of this Partnership is to coordinate the mortgage products and educate tribal members on mortgage financing. As an example, the Partnership is currently reviewing the new Bureau of Indian Affairs leasing and mortgaging regulations, which will have a significant impact on the perfecting of mortgage loans on tribal trust and allotted lands. The Partnership members also play an active role in the development of mortgage lending tracks and the presentations of workshops at the annual NAIHC membership conventions. NAIHC is the largest nonprofit tribal advocacy organization representing tribally designated housing entities, tribal housing authorities and local tribal nonprofits.
- In July of 2003, USDA Rural Development entered into a new partnership with the Federal Communications Commission (FCC) to collectively initiate outreach efforts into rural and tribal areas to improve education and access of telecommunications. This Initiative also included the development of a jointly sponsored web site.

Local Level

- We have several Rural Development State Offices that have staff members who are a part of regional working groups to work on similar joint initiatives. We recognize the importance of carrying out Rural Development programs at the local level with interested parties who provide program services directly to the end users. An example of such local working group is the New Mexico Tribal Homeownership Coalition. The mission of the Coalition is to promote homeownership opportunities on Indian Reservations in New Mexico. The Coalition works collectively to provide resources and technical assistance to pueblos and tribes interested in developing mortgage programs. Formed in 1999, the Coalition provides training and education for tribal governments and the private sector, serves as a venue for collaborating to streamline the "new"

mortgage process, and addresses other barriers to homeownership. Membership in the Coalition is open to all entities with a similar mission or program. In addition to the tribes and Tribal Designated Housing Entities of New Mexico, the Coalition includes several federal agencies, a U.S. Senator's office, Fannie Mae, and the New Mexico Mortgage Finance Authority. Nonprofit and community development organization members include those working on the national, regional, and state levels. A number of mortgage lenders and private sector entities such as law firms participate as well. We have found that these examples of informal housing workgroups developed around the country are often the catalyst in getting the necessary industry players together for a more coordinated approach to assisting tribes and tribal individuals in achieving homeownership.

- Rural Development participated in the development of the "One Stop Mortgage Initiative in Indian Country." As a result of this Initiative, Rural Development, along with HUD, and the Department of Veterans Affairs, created a uniform set of lease and mortgage documents as well as tribal court foreclosure and eviction ordinances to facilitate the delivery of single family mortgage products on tribal trust and allotted lands. These documents were developed in conjunction with the Bureau of Indian Affairs, who has final approval on all leases and encumbrances of tribal trust and allotted lands. Since the inception of this Initiative, Fannie Mae has also accepted these documents for use with their conventional programs. Prior to this Initiative, each of the primary government and private sector lenders had their own requirements and documentation, which made it very difficult for the tribal governments and tribal members to obtain individual approvals from the respective single family mortgage government and private providers.

We have also created some of our own internal initiatives that will better equip our employees with the tools to work with tribal governments and improve the tribal customer's accessibility to our programs and services. Some were implemented in the past few years and others are presently under development. USDA Rural Development is

committed to improving the delivery of our programs to Native Americans both individually and cooperatively with leveraging partners:

- Rural Development has put in place several part-time offices on Indian Reservations for the purpose of making our staff and single family mortgage programs more accessible to Native Americans in the most remote parts of the country. This service is available to any tribe who makes the request and is willing to provide the space and other technical support. The amount of time devoted to these offices varies considerably from tribe to tribe depending on their needs.
- We have entered into a contract with the Housing Assistance Council to update our "Guide to Lending on Native American Lands." This guide is a tool for Rural Development staff to assist them through the unique processes that are required to do single family mortgage lending on tribal trust and allotted lands.
- To assist tribes and other rural communities with meeting the complexities of the National Environmental Protection Act as it relates to program environmental requirements. Rural Development has authorized funding for a contract to develop an automated software program for use by applicants and staff to simplify and streamline the documentation requirements of the environmental regulations. This will be especially useful when funding is being provided by multiple agencies.

Conclusion

We are very aware of the lack of affordable, decent and safe housing in tribal communities. There have been several recent studies from such organizations as the National American Indian Housing Council, the National Congress of American Indians, and the Housing Assistance Council that have done an excellent job of identifying and quantifying the severity of the housing problems on tribal lands. These studies, along with the voices of the tribes themselves, have been instrumental in bringing the issues to

the forefront of the non-tribal communities, legislators, government agencies, and others who have the resources and an interest in trying to assist with addressing the problem.

We have made significant gains in the past several years and will continue to more effectively deliver our programs to Native American communities and individuals by analyzing internal and external procedures that may be impediments to tribal governments from fully accessing our programs.

Comprehensive economic development strategies are paramount in the building of tribal communities in order to assure sustainability and that adequate community facilities and services will be in place to support this increase in families and housing. Without some framework for economic development, families have minimal opportunity to achieve what others refer to as the "American Dream."

USDA Rural Development is committed to the future of tribal communities and proud of our progress in the delivery of programs and services to American Indian and Alaskan Native communities.

Mr. Chairman and Members of the Committee, this concludes my formal statement. We would be glad to answer any questions you may have. Thank you for the opportunity to appear before you to discuss the Rural Development budget request.

Testimony of Pattye Green
Senior Business Manager, Fannie Mae
House Financial Services Committee
Housing and Community Opportunity
May 3, 2004

Thank you, Chairman Ney, Ranking Member Waters, Congressman Renzi, and Congressman Matheson.

My name is Pattye Green and I am the Senior Business Manager for Native American Initiatives with Fannie Mae. In that role I assist the regional offices and partnership offices in structuring mortgage transactions on and off trust land. I have over 27 years of mortgage lending experience and most recently the director of the Home Finance Department for the Housing Authority of the Choctaw Nation of Oklahoma. And, I am a Choctaw Tribal Member myself.

I want to thank you for inviting me to testify on the state of homeownership on tribal lands and to commend you and Congressman Renzi for your leadership right here in and around Tuba City Arizona on this issue. Your concern and attention are critical to the success of public and private sector efforts to expand homeownership opportunities in the Native American community.

I am pleased to be here today to discuss Fannie Mae's commitment to expanding homeownership in tribal communities and to share with you the steps we are taking to overcome the barriers to capital access on tribal lands.

As this Committee is keenly aware, Fannie Mae's mission is to expand homeownership, with a special focus on helping underserved Americans overcome the unique barriers they face. Our role among financial institutions – and what sets us apart – is that we provide private mortgage capital to all communities, at all times, under all economic conditions, at the lowest rates in the market.

Finding ways to create affordable housing opportunities for Native American families living on tribal lands is one of the toughest challenges to our mission. Native American families are one of the most underserved, impoverished minority populations in the country. The Native American Indian Housing Council (NAIHC) estimates that the homeownership rate in Indian country is about 33 percent,[1] substantially below the national average, and Native Americans are four times more likely than the average American family to live in substandard housing. Stubbornly high levels of poverty and unemployment are significant barriers to conventional credit, as is the legal complexity of mortgage lending on Native American lands.

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[1] The U.S. Census Bureau has estimated total Native homeownership; both on and off reservation, at more than 50 percent. Still substantially below the national average.

Fannie Mae has embraced this challenge, and we work daily with Congress, Native American tribes, the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, mortgage lenders, and other housing leaders to increase mortgage financing opportunities for Native Americans. We believe firmly that our housing finance system can and must do more to ensure that Native Americans have an equal opportunity to obtain affordable mortgage financing.

Let's look at your experience right here in Arizona. As of 1994, there had never been a conventional mortgage loan originated on the Navajo Nation, the largest Indian reservation in the United States. With a landmass of nearly 27,000 square miles and a population of approximately 160,000 at that time, this reservation, like much of Indian Country, had been largely ignored by the mortgage market that flourished throughout the rest of the country.

In 1996 the Neighborhood Reinvestment Corporation, at the behest of the Navajo Nation's divisions of economic development and community development, founded the Navajo Partnership for Housing (NPH). Its mission is to help Navajos build or buy homes. We work continually with NPH, which is now in its eighth year, and a representative from our New Mexico partnership office serves on its Board.

Fannie Mae has also worked with Dallas Massey, Chairman of the White Mountain Apache Tribe in the White Mountain Apache Housing Authority (WMAHA) as they have developed their Apache Dawn Development Community, which includes the first ever use of tax-exempt bonds by an Indian Housing Authority and Apache Ridge Apartments.

And we have been actively involved with many other tribes in Arizona. Over the years, Fannie Mae has participated with the Hopi, Gila River and the Salt River Pima Tribes by providing mortgage financing and by supporting their efforts to provide information on how to prepare for the home purchase process.

Fannie Mae's Commitment to Native American Borrowers and Communities

I would like to briefly mention our internal Native American Business Council, which convenes representatives from our community development and our regional and partnership offices to work together to expand our capacity to make tangible investments that increase affordable housing opportunities on tribal lands throughout the country. Some of the goals of this Council include the following:

- Building a stronger lender base by educating lenders about the unique characteristics of lending to tribal communities;
- Teaching tribes how to leverage federal resources to support the production of additional affordable housing units; and

- Developing additional products appropriately tailored to the specific needs of each tribe.

Fannie Mae's first formal effort with tribal communities began as part of our Trillion Dollar Commitment – a commitment we made in 1994 to invest $1 trillion to serve 10 million underserved families — low- and moderate-income families, minorities, new Americans as well as residents of central cities and urban areas. Through our Native American Housing Initiative (NAHI) we committed, for the first time, to purchase HUD and USDA guaranteed mortgages on tribal lands.

We increased our efforts to expand housing opportunities for Native Americans in 2000 with Fannie Mae's American Dream Commitment-- a ten-year, $2 trillion pledge to increase homeownership rates and serve 18 million targeted families by 2010. This effort included a formal strategy to address the unique housing needs of Native Americans, one element of which was a commitment to invest at least $350 million to serve 4,600 families on reservations and trust land and to expand our network of partnerships to include 100 tribes on trust and tribally-restricted land.

We have achieved and surpassed these goals. Here are some of the highlights:

- Over the past five years, Fannie Mae has helped over 100,000 Native American families purchase homes by providing more than $14.8 billion in affordable financing;
- On reservations and tribal jurisdictional lands, we have invested over $640 million to serve over 7,100 families;
- We are pleased that we have been able to reach 191 tribes with our financing;
- In 2003 alone, Fannie Mae invested $272 million and purchased loans made to tribal members of 114 tribes on reservation and trust land, serving over 2,749 families;
- In 2003, we also invested more than $18 million with the Raymond James Indian Country Tax Credit Fund to develop low-income housing tax credit business, which includes new construction for rental housing as well as rehabilitation of existing housing units in Native American communities; and
- Fannie Mae has teamed up with PMI Mortgage Insurance Co. under their Gateway Cities Initiative to provide $125,000 in revolving funds for nonprofit community development corporations building or renovating housing on the Pine Ridge reservation, in North Dakota, and on the Acoma Pueblo Reservation, in New Mexico.

Earlier this year we announced our Expanded American Dream Commitment, which will increase our efforts in Indian Country even further.

Together with tribal leaders, and through our partnership with the National American Indian Housing Council (NAIHC), we are working to create a new Native

American Strategic Partnership to bring capital to Indian Country, with a goal of launching at least 10 comprehensive initiatives in tribal areas. As part of this strategic partnership, Fannie Mae will:

- Work with tribal governments, the U.S. government, and lenders to simplify current processes that impede the development of homeownership opportunities in Indian Country; and

- Increase our investments to support tribal housing initiatives during this decade to at least $1.25 billion serving 11,000 families. We will serve these communities with an array of tools including single-family and multifamily acquisition, development, and construction lending, other American Communities Fund investments, other multifamily products, rehabilitation lending, low-income housing tax credit equity, and related community development infrastructure investments.

Overcoming Barriers

While delivering these quantifiable results is necessary and important, it is not sufficient to achieving our overall goal of increasing housing opportunities for Native Americans. Some of the most important work we and others have done, and will continue to do, centers on building trust and developing relationships that will allow us to be successful in these communities for the long run. That is why a fundamental piece of our approach to serving this community has been working to build a lender base that understands the challenges of tribal communities. The gains to date are made possible by working collaboratively with tribes and lenders to understand the needs of these communities and to overcome some of the barriers to capital access – and there are many – that block economic development in Native American communities.

I would like to share with you some of the issues Fannie Mae has faced in our efforts to bring the American Dream of homeownership to first Americans, and what we are doing to meet these challenges.

Economic and Infrastructure Barriers

The most stubborn barrier to capital access in Indian Country is the lack of economic opportunity. Poverty rates are 26 percent for Native Americans, over double the national average of 12 percent. In Navajo country 43 percent of the people live below the poverty level; the per capita income is $7,300 and the unemployment rate reaches almost 25 percent.[2]

And in many tribal communities the economic base is negligible, leading to substandard infrastructure. Many Native American reservations and tribally designated

[2] *According to 2000 Census of Population and Housing..*

lands suffer from a limited housing stock and a lack of road and utility infrastructure to support new housing.

Against this backdrop, it is not surprising that the Native American homeownership rate lags far behind the national rate of 68 percent, and that Native Americans are pessimistic about the lending process. A 2000 survey by the Treasury Department found that 65 percent of tribal members viewed conventional home mortgages as "difficult" or "very difficult" to obtain. The Navajo Housing Authority (NHA) estimates it needs 21,000 new housing units to satisfy the unmet needs of all Navajo families – including 12,000 new homes for purchase. Many of the Navajo families live with extended families in overcrowded conditions. A majority of families are unable to qualify for mortgage loans due to lack of credit, credit problems, or lack of finances to make down payments.

Obviously Fannie Mae cannot single-handedly overcome these difficulties. As Chairman Ney and Members of this Committee recognize, the federal government must play a role in working with tribes to create self-sustaining economies by bringing private companies and tribal governments together. Fannie Mae can help by doing what we do best: developing the tools that expand access to homeownership. Homeownership is a key driver of economic growth and revitalization. It promotes commercial investments and infrastructure improvements, which in turn reinforce homeownership. By expanding homeownership for Native Americans, we can not only provide families with better housing, but also with the power to raise capital, accumulate wealth, and build a more secure financial future.

Fannie Mae is taking a two-pronged approach to promoting homeownership in tribal communities: first, by developing the right products to optimize Native American access to homeownership, and second, by expanding housing capacity on tribal lands.

Product Development. Fannie Mae is working with our lender partners to tailor lending products to meet the needs of tribal members who lack the resources to qualify for traditional financing. In 1999 we launched our Native American Conventional Lending Initiative (NACLI), designed to make conventional lending possible for Native Americans on tribal trust or otherwise restricted lands. Through this initiative, the full range of our low down payment mortgage product options, as well as specific accommodations responsive to the unique circumstances of Native American borrowers, are available to lenders working on tribal lands.

Fannie Mae has also customized its suite of Community Lending mortgage products to respond to the unique needs of Native American communities. Our Community Lending products are designed to help borrowers overcome the two primary barriers to homeownership — lack of down payment funds and qualifying income -- through lower cash requirements for down payment and closing, reduced qualifying income requirements, and higher acceptable debt-to-income and loan-to-value ratios than required for traditional conventional mortgages. We have worked with tribes to add unique features to this product line, including tribally-provided homebuyer education,

down payment assistance programs and intervention programs for borrowers who get into difficulty.

We currently have relationships with 112 lenders to make loans to Native Americans on tribal lands. Some of our major partners include Countrywide Home Loans, First Mortgage Company, and Washington Mutual.

Additionally, Fannie Mae uses automated underwriting to bring our most flexible underwriting options to Indian Country. The Chickasaw Nation and Choctaw Nation of Oklahoma and the Aleutian Housing Authority in Alaska have developed the capacity, using our Desktop Originator technology, to act as a loan origination source, expanding availability of low down payment loans to tribal members.

Housing Capacity. Second, Fannie Mae is partnering with public and private entities to address some of the infrastructure challenges that make it difficult to expanding housing capacity. Fannie Mae has worked with tribes to support new construction through investments in low-income housing tax credit investments (LIHTC), collateralized revenue bonds and HUD guaranteed Native American Housing Assistance and Self Determination Act (NAHASDA) Title VI loans. Fannie Mae LIHTC investments helped create 199 units of housing on Indian land in 2003, and we have an additional possible investment to create 505 units in the 2004 pipeline.

We have also developed a secondary market option for development loans guaranteed by HUD under Title VI of NAHASDA. As a result, in 2002, Fannie Mae purchased a $50 million Title VI Loan to finance the creation of 538 units for low- and moderate-income families in the Cherokee Nation of Oklahoma. This is the largest loan originated under Title VI of NAHASDA.

Right here in Arizona last September, we worked with Navajo Nation President Joe Shirley, Congressman Renzi and others as we put together a $3 million Navajo Community Guaranty Initiative which will allow us to finance homes for borrowers we never could serve before. Specifically, the initiative will help approximately 60 families on the reservation to purchase newly built homes with contributions from their own funds of just $500 or even less. And the agreement allows for more flexible underwriting parameters, including acceptance of past credit blemishes and the use of non-traditional credit for those borrowers who do not have an established credit history.

"The signing of this agreement between the Navajo Nation and Fannie Mae marks another step forward in our joint efforts to promote the dream of homeownership on the reservation," said Shirley. "Over the past several years, we have worked hard to transform the mortgage finance system in the Navajo Nation. I am proud that we are making it easier and more affordable for families on the reservation to purchase a home."

When we announced the Guaranty Initiative, Chester Carl, Chief Executive Officer for the NHA observed, "Step-by-step, we are identifying and filling gaps in the

mortgage finance system for the Navajo Nation, enabling more families to become homeowners which is an important first step in the creation of wealth."

I would also like to thank Congressman Renzi for his work on this project. This is the kind of public/private partnership that brings real results and innovative solutions to housing challenges.

Legal & Regulatory Barriers

Perhaps the greatest single obstacle to increasing homeownership in Indian Country is the legal framework governing tribal lands. Trust land is inalienable, being subject to transfer restrictions imposed by Indian treaties, Acts of Congress and proclamations of the Secretary of the Interior, and is generally subject to the jurisdiction and laws of the tribe, which is protected by sovereign immunity. Tribal sovereignty generally entails the right to govern, adjudicate disputes, and be immune from lawsuits. While some tribes have fully developed commercial codes, others maintain a tribal council or executive body as a legal enforcement mechanism, and some have no court system at all. As a result many lenders have concerns about the enforceability of contractual obligations and of the legal remedies available. Some lenders have been unwilling to provide capital in the face of such legal uncertainty.

Even for those willing to lend, the legal environment creates many additional hurdles. For example, there is a very limited market from which lenders can obtain data for the purposes of determining property values, and the restrictions against alienation further diminish market values. In addition, the making of a home loan on tribal land generally requires the tribe to be a party to the transaction and contracts related to the property that require the tribe to be a party are not enforceable unless the Federal Bureau of Indian Affairs (BIA) approves the contract. The BIA, as administrator of trust lands, also has to provide title status reports on land covered under any mortgage.

Addressing the legal issues such as tribal sovereignty and tribal court jurisdiction is a prerequisite for increasing the flow of capital to tribal lands. But it is not an easy task, since each tribe is sovereign and acts independently.

Tribal governments have recognized this and have taken steps to clarify tribal sovereignty and sovereign immunity, particularly regarding business and housing development, but resolving this issue requires partnership from the private and public sectors. Fannie Mae has worked with HUD, the USDA and Treasury to support tribes in creating standardized documents and model legal ordinances to support government guaranteed and conventional mortgage activity.

In fact, in 2002 we made a major announcement designed to minimize a significant barrier to single family lending on tribal lands: Fannie Mae no longer requires tribes to make limited waivers of their sovereign immunity and we also now provide for the mutual consent to tribal court jurisdiction over conventional lending initiatives on tribal trust land. In 2003, Stewart Title agreed also not to require tribes to make limited

waivers of their sovereign immunity in order to write title insurance on single-family loans that Fannie Mae purchases. In 2003, AMERIND Risk Management Corporation was approved as a recognized provider of hazard protection for mortgage-backed homes in Indian Country. They are a non-profit risk pool, which was incorporated under the Tribal Laws of the Red Lake Band of Chippewa Indians in1986.

We believe that these modifications to our legal policies that simplify and streamline the implementation of appropriate structures for tribal governments have encouraged our lender partners to expand their efforts to serve the Native American community. Addressing this issue should go a long way towards building a better relationship between the lending community and tribal governments and improving housing opportunities for Native Americans on tribal lands.

Communication Barriers

Another major barrier to homeownership in Indian Country has been simply communication. For years, Native American communities have been told how to solve their problems but given few opportunities to participate in developing the solutions. Fannie Mae recognizes each tribe as its own sovereign nation, with unique housing challenges and that a one-size-fits-all approach to expanding homeownership will not work with tribal communities.

As a result, we are working to create an open dialogue between individual tribes in an attempt to gain greater understanding of each tribe and the challenges it faces. In 2003, Fannie Mae partnered with the United Native American Housing Association (UNAHA), which consists of 32 tribes located in seven states, in their collaborative effort to build 500 new housing units. This is a great example of bringing in all the partners, as each tribe will work with lenders, local partners, local nonprofits, and Fannie Mae to build 16 new housing units.

Information Barriers

Finally, education poses a barrier to capital access for Native Americans. Many Native Americans do not have banking relationships, and in many Native American economies, financial transactions have long been conducted in cash. As a result, many Native Americans lack an understanding or familiarity with banking, credit reporting, and the loan qualification process and standards. And unsurprisingly, they have difficulty obtaining credit through traditional means. In 2002, the conventional loan denial rate for Native Americans borrowers was 23 percent, the second highest among ethnic groups after African-Americans (26 percent). This despite the fact that HUD's Section 184 Native American homeownership program, which has existed since 1992, has shown a foreclosure rate of .01 percent.[3]

This lack of familiarity with bank practices and products also leaves many Native communities vulnerable to unscrupulous financial practices that undermine communities'

[3] Data from the Native American Indian Housing Council.

efforts to build financial assets. In a 2003 survey by the National American Indian Housing Council, 53 percent of respondents believed that lenders discriminated based on race and identified predatory lending in their tribal areas as a serious concern.

Borrowers also need to know how to deal with blemished credit when they enter the mortgage process. One of the products that Fannie Mae has tailored to help those with impaired credit is our Timely Payment Rewards mortgage. This product helps borrowers obtain affordable housing finance, while simultaneously helping to repair their credit. With this mortgage, a borrower who makes 24 on-time mortgage payments is eligible for up to a 1 percent rate reduction, effectively saving them up to $60,000 over the life of a $100,000 mortgage.

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I hope that with these commitments, Fannie Mae has begun to make progress in expanding homeownership for Native Americans. We recognize we have a long way to go and we will continue to listen closely to Indian Country leaders. We believe that we can create long term partnerships with tribal leaders to address the tough housing and economic challenges facing Native American communities today.

I want to thank Chairman Ney and members of the committee for their leadership and their commitment to expanding homeownership opportunities for Native Americans. And I also want to thank Congressman Renzi for hosting this hearing, to bring attention to the Native American homeownership gap, and the efforts underway to close that gap. You have been champions of developing housing in Indian country and supporting tribal members' efforts to revitalize their communities. I look forward to working with you and other Members of the Committee to continue making progress.

Thank you, and I would be happy to answer any questions.

House Financial Services Housing Subcommittee

Congressional Field Hearing: Native American Lending Initiatives

Tuba City, Arizona

May 3, 2004

Statement By

Freddie Hatathlie

Wells Fargo Home Mortgage Consultant for Indian Country Initiatives

Congressman Renzi and Members of the Subcommittee: I am Freddie Hatathlie, a Wells Fargo Home Mortgage Consultant for Indian Country Initiatives. I am a member of the Great Navajo Nation working directly with Tribes in Northern Arizona meeting their mortgage financing needs. I would like to make a brief statement on our Wells Fargo goals related to Native American lending and respond briefly to some of the specific questions you have raised.

For more than 25 years, Wells Fargo has recognized that tribal nations have special financial needs. The challenge might be the trust status of tribal land, a tribe's status as a sovereign nation, or the lack of standard financial information that is traditionally required for project financing and other credit needs. Wells Fargo is an experienced lender in these questions, and I believe, has a strong commitment to finding solutions and recognizing the unique status of tribal sovereignty and nation status.

Arizona is a very important market for Wells Fargo and would also note that Wells Fargo operates in 22 other states that are home to nearly 90% of federally-recognized tribes. Wells Fargo provides the full array of financial services, including 15 full-service banking facilities located on tribal reservations.

Wells Fargo collaborated closely with many Members of the House Financial Services Committee to ensure passage of the HUD Section 184 program. Congressional action in this area was vital and the law provides much needed clarity with respect to mortgage transactions on tribal lands. Wells Fargo Home Mortgage is the largest producer of loans specifically on Indian trust lands, provides construction financing for tribal housing developments of five or more single-family units.

The Subcommittee had asked for specific comments in response to four questions. I would like to discuss each in turn:

1) What initiatives or partnerships have you taken part in or have knowledge of that are designed to contribute to the development of more housing for Native Americans and for tribal areas?

I want to highlight Wells Fargo's contributions and initiatives that promote housing activities in Indian Country:

- Wells Fargo Home Mortgage with the help of the US Department of Housing and Urban Development Section 184 Indian Home Loan guarantee program, can originate mortgage loans in Indian Country to the eligible Native American Borrower(s);
- Wells Fargo Home Mortgage can transact conventional mortgages on Trust Land;

- Wells Fargo Home Mortgage through its Housing Foundation is the sole sponsorer partnering with the Neighborhood Reinvestment Corporation to provide a Native American Community Development Training program. The program is available to all practicioners working in or serving Indian Country;
- Wells Fargo has contributed monetarily to nonprofit organizations that:
  - assist 1st time homebuyers;
  - promote Financial Education, Including distribution of Wells Fargo's curriculum, Hands on Banking – a comprehensive curriculum available free of charge and with no corporate advertising. We are pleased that many states have approved the curriculum for use in public school systems.
  - assist with down payment and closing costs;
  - renovate/resell homes; and
  - sponsor the Individual Development Account (IDA) to help low-wage earners to build assets and increase economic self-sufficiency.

2) ***The Bureau of Indian Affairs, the Federal Housing Administration, the Rural Housing Service, and the Veterans Administration are party to the One-Stop Mortgage initiative under which uniform documents are developed for leases, mortgages and foreclosure procedures for loans on trust land. Are you familiar with this initiative? How has this program contributed to greater homeownership initiatives? What other initiatives would be helpful to promote greater private sector involvement?***

   Wells Fargo is familiar with the One-stop initiative and was represented during the discussions. The initiative provided a platform for discussion and allowed for a uniform voice to be heard, at the tribal and Federal levels. Prior to the One-stop Initiative, there was a lack of focus on Housing for Indian Country.
   The one-stop report included the successes of the pilots and it further outlined the challenges/barriers and recommendations to promote homeownership to the Native American population, therefore continuing this initiative would advance housing activities.

3) ***Much of the Native American land is held in a trust. The trust status creates unique challenges for those wishing to develop the private market. Tribes have limited sovereignty over their lands, but the Bureau of Indian Affairs holds much of the land in trust. The trust status limits the type of economic activity allowed on Native American lands. How does this affect the private sector's ability to provide housing assistance***

to Native Americans? What action do you believe must be taken to encourage greater homeownership opportunities for Native Americans?

The process is filled with complexities making it complicated for the family, the lender, the secondary provider, the Bureau of Indian Affairs and Tribes, to understand. I would make the following recommendations:

- Additional staffing to provide for timely review of mortgage transactions at the tribal and Bureau of Indian Affairs (BIA) level.
- Mortgage transactions should/must become a routine administrative process expediting recordation at the Bureau of Indian Affairs title plant.
- Emphasize and promote a Financial Education program in Indian Country with the help of Financial Institutions.

4) ***In 1997, the General Accounting Office reported that only 92 conventional home mortgages were made in tribal areas during the 5-year period from 1992 until 1996, and half of those were made on a single reservation where the tribe owned the bank. What changes or initiatives are necessary to encourage private mortgage market investment in Native American areas?***

During the mentioned time frame, the program itself, the process, etc. was not clearly outlined, hence the 92 loans within the 5 year period.
It was not until there was an emphasis placed on the One-stop Initiative from the U S Presidential Administration, that Indian Country homeownership was approached with the intent of making homeownership a right and not a privilege, to the Native American population.

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(928)774-8303 fax

**TESTIMONY OF CHAIRWOMAN KATHLEEN W. KITCHEYAN
OF THE
SAN CARLOS APACHE TRIBE**

**FOR THE FIELD HEARING ON
IMPROVING HOUSING OPPORTUNITIES FOR NATIVE AMERICANS**

**BEFORE THE SUBCOMMITTEE ON HOUSING
AND COMMUNITY OPPORTUNITY OF THE
FINANCIAL SERVICES COMMITTEE**

UNITED STATES HOUSE OF REPRESENTATIVES

TUBA CITY, ARIZONA

MAY 3, 2004

Good afternoon, Chairman Bob Ney, Vice-Chairman Mark Green, Ranking Member Maxine Waters, my Good friend Congressman Rick Renzi, and other members of the House Financial Services Subcommittee on Housing and Community Opportunity. I am Kathy Kitcheyan, Chairwoman of the San Carlos Apache Tribe based in San Carlos, Arizona. I am honored to be here to testify today before this Committee to provide the views of the San Carlos Apache Tribe on the housing conditions and needs on the San Carlos Apache Indian Reservation. I am joined by Tribal Council Member Robert Olivar, who is also Chairman of the San Carlos Housing Board of Directors for the San Carlos Housing Authority, and Mr. Ronald Boni, Executive Director of the San Carlos Housing Authority. Also, in the audience today are many other members of the San Carlos Tribe who work on housing issues for the Tribe.

Before I begin, I would like to take this moment to thank you for holding this important hearing on the housing needs in Indian Country. We appreciate the dedication to this serious issue you show by the fact that you are here -- far away from Washington, D.C. -- to seek our views and to see the conditions out here first hand. In particular, I want to thank Congressman Rick Renzi for his tireless and passionate advocacy on behalf of the San Carlos Apache Tribe as well as for the other tribes in his district and across the country. His efforts on behalf of Indian tribes are well known and we appreciate the priority he has made in addressing our needs.

The San Carlos Apache Indian Reservation

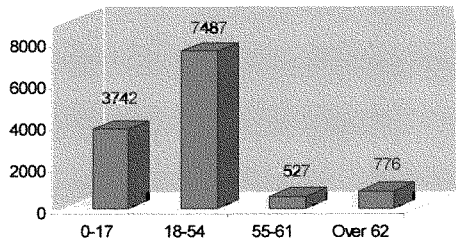
To better understand the housing needs on the San Carlos Apache Indian Reservation as well as the Unites States' trust responsibility to the San Carlos Apache Tribe, it is helpful to know about the Reservation itself as well as the history of the Apache people. The aboriginal territory of the Apache Nation included the western part of Texas, the current states of Arizona and New Mexico, and the country of Mexico. The Apache Treaty of Santa Fe in 1852 was executed by Mangus Colorado and others on behalf of the Apaches. Pursuant to the Treaty, lands within the aboriginal territories

of the Apache Nation were to be set aside for a permanent Tribal homeland and the United States promised to provide for the "humane" needs of the Apache people. In exchange, the Apache Nation agreed to the end of hostilities between the two nations.

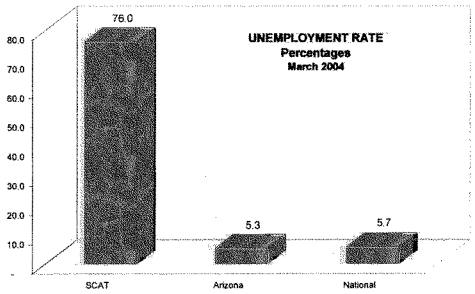
The San Carlos Apache Indian Reservation was established by an executive order of President Grant on November 9, 1871. Through the concentration policies of the United States, various bands of Apaches were forcibly removed to the San Carlos Apache Indian Reservation. These bands included the Coyoteros, Mimbrenos, Mongollon, Aravaipa, Yavapai, San Carlos, Chiricahua, Warm Springs, and Tonto Apaches. Famous Apache leaders who were located at San Carlos included Geronimo, Cochise, Loco, Eskiminzin, Nachie, Chatto, and others. Throughout history, the United States in 1873, 1874, 1876, 1877, 1893, and 1902 diminished the size of the Reservation several times by executive order due to the discovery of silver, copper, coal, water, and other minerals and natural resources. I have attached a map illustrating the reduction in the size of the Reservation over the years by the United States.

The Reservation now, at its current size, spans three Arizona counties: Gila, Graham, and Pinal. The reservation currently has a land base of 1.8 million acres. The Reservation is mostly rural and lacks basic infrastructure in many parts. The total population is 12,532 members, which is based upon figures compiled by the Tribe's Enrollment Office. 30% of the population is under the age of 18 years; 60% are between the ages of 18-54; 4% are between the ages of 55-61; and 6% are 62 years of age or over.

Population Breakout
(Based on Tribal Enrollment Office)



Although some have moved away due to economic depression on the Reservation and other reasons, a high majority of our members, 84%, live on the Reservation. While we have worked hard to develop our Reservation economy, 76% of our Reservation population is unemployed compared to the national unemployment rate of 5.7% and the state of Arizona rate of 5.3%. We suffer from a poverty level of 77%.



The Tribe has designated the San Carlos Housing Authority (SCHA) to operate and administer the Tribe's housing program. Currently, much of SCHA's work is accomplished primarily from funding under the Native American Housing Assistance and Self-Determination Acts (NAHASDA).

Critical Housing Needs on the Reservation

There are two critical needs relating to housing on the Reservation: (1) a severe housing shortage; and (2) severely inadequate utility infrastructure. These inadequacies create unsafe and unsanitary conditions.

This situation is simply unacceptable in this great country of ours. Let me be clear that the San Carlos Apache Tribe supports our troops in Iraq, Afghanistan, and other parts of the world. The Apaches have many decorated war veterans that have served with distinction in the United States military throughout this country's history. In fact, the San Carlos Housing Authority has an employee named Percy Via, an Army reservist, who has worked for them for 20 years. He was called to duty and was part of the first wave of Army soldiers to invade Iraq. He just returned three weeks ago from Iraq, and we are very proud of him.

However, I wonder about some of the priorities of the United States when my community needs to be rebuilt, my people need homes, and my people need infrastructure, including sewage and water systems. When I hear about the billions and billions of dollars the United States is spending to rebuild Iraq, to build homes for the Iraqi people, and to build infrastructure in Iraq, such as sewage and water systems, I wonder why the United States will do these things for the Iraqi people but not for its own citizens in the United States. We have gone without for so long. Many Apaches do not have homes, do not have plumbing, and do not have drinkable water. It is not right that the United States has not addressed our needs and instead addresses the needs of people in other parts of the world.

I cannot stress enough the dire housing shortage on the Reservation. There are approximately 2400 families on the Reservation that are in need of homes. 39% of families live in substandard housing and 40% of families live in overcrowded conditions.

We have calculated that it would take building 125 homes a year for 10 years to meet the housing needs of tribal members. Also, 94% of 3,067 total families are considered low income as defined by NAHASDA. Council Member Olivar recently stated that he receives at least 6 visits a day from families who have no place to go and are in desperate need of housing. Mr. Olivar states that it is heartbreaking to tell these families that the waiting list is too long and that there are no homes for them. I know that the other Council Members as well as the San Carlos Housing Authority employees meet with families with these same plights as often as Mr. Olivar.

I have attached pictures of some of the terrible housing conditions on the Reservation to give you an idea about the sub-standard housing conditions in my community. My hope is that, through this hearing and through your assistance, we can find ways to tackle this problem and to work together to strive to ensure that everyone who needs a home has one. And not just any home, I mean a decent and affordable one.

One area that needs improvement is the environmental review process required for HUD's Indian Housing Block Grants under NAHASDA. HUD's Southwest Office of Native American Programs does provide efficient technical assistance and guidance to the SCHA in training matters and on programmatic issues; however, the Tribe is frustrated with the inordinate amount of time that it takes for HUD to approve environmental reviews for its housing projects.

Before HUD releases funds for a tribal housing project, the Tribe, among other things, must submit an environmental review of the project that must, in turn, be approved by HUD. The Tribe submitted environmental reviews for two of its housing projects over a year ago and there has been no action taken by HUD on these reviews. As discussed above, we have tribal members, including children, who are homeless or need serious rehabilitation performed on their homes. These delays, therefore, take a huge, and sometimes irreversible, toll on our people. We are two years behind in using our grant funding due to the delay of HUD in approving our environmental reviews for our two housing projects. We are told that there is a huge backup in processing the environmental reviews for tribal housing projects at HUD's Southwest Office of Native American Programs located in Phoenix and that the Phoenix office is responsible for 170 tribal housing authorities. We recommend that the Phoenix office be given more resources to handle the huge loads that it has, and we also recommend that HUD streamline and expedite the environmental review process.

Tied to our housing needs are our utility infrastructure needs. The Tribe's utility infrastructure is sorely inadequate and, without improved infrastructure, it will be difficult to provide decent housing. Specifically, our sewage treatment systems are in such bad shape that they are causing a health risk to nearby communities. The hydraulic capacity of our existing sewage treatment facilities have been exceeded by approximately sixteen percent. The capacity has been exceeded to the point that they cannot adequately provide reliable sewage treatment. Due to lack of funds, the existing sewer ponds are filling with too much sludge and the berms (earth dikes around pool) have deteriorated.

In an attempt to address our sewage system problems, the Tribe did seek funding from USDA's Rural Housing Service a few years ago. However, because the

funding for the Rural Housing Service is very limited, the Rural Housing Service did not have enough funding to allow us to fix our sewage treatment system problems. Instead, the funding provided then was only enough to allow us to put some band-aids on the problem through some isolated sewer upgrades. The Tribe does not have the funding to fix our sewage treatment system and would be appreciative of assistance from the federal government to rectify this situation. We understand that the tribes who have been able to obtain funding from the Rural Housing Service to make systemic sewage and water infrastructure improvements have been able to make an extremely positive impact in their communities. The programs of the Rural Housing Service provide essential basic infrastructure for tribes; therefore, we urge you and your colleagues in the Congress to support this program through significantly increased funding.

The Tribe is also experiencing many problems with its current water storage facilities. First, the storage tanks are too small and do not meet the Tribe's demand for water by 24%. In order to provide and build more homes, adequate storage and distribution systems need to be installed. Second, the water quality of our drinking water is very poor and contains many chemicals and minerals. Third, due to the lack of adequate water distribution systems, our fire departments cannot effectively combat house fires on the Reservation. Currently, our fire departments rely on 1,000-gallon water tanks attached to their trucks for fighting fires given that there are no fire hydrants or other adequate water distribution systems on the Reservation. This system of fighting fires is insufficient and results in homes burning to the ground. Unfortunately, the Tribe does not have the funding to upgrade or build the required systems to adequately supply present and future demand and again would appreciate assistance on this matter as well.

Trust Land Issues Affecting Homeownership on the Reservation

The Reservation, which is 1.8 million acres, is held in trust for the San Carlos Apache Tribe by the United States. The trust land issues affecting homeownership on the Reservation are similar to the issues affecting other tribes with trust lands. Historically, financial institutions, as you know, have been reluctant to provide mortgages for homes on trust land. However, the Tribe would like to change this and increase homeownership on the Reservation. The Tribe plans to apply for HUD's Section 184 Indian Housing Loan Guarantee Fund, which provides a federal guarantee to mortgage lenders to protect them if a homeowner defaults and the property is on trust land, and encourage financial institutions to provide mortgages to tribal members for homes on the Reservation. To this end, the Tribe is in the process of drafting and adopting an eviction and foreclosure code as well as a land lease agreement that can be used with the BIA, HUD, and financial institutions to comply with requirements of Section 184 and to ease some of the concerns of lenders in foreclosure situations.

We also recommend the creation of a program similar to Section 184 for middle income families who would like to become homeowners or the expansion of Section 184 to include middle income families. Currently, middle income families fall outside of the eligibility requirements for Section 184. However, middle income families encounter the same problems that low income families encounter in obtaining the dream of homeownership on trust land – *i.e.,* private markets are hesitant to lend to them without a federal guarantee if the homeowner defaults on property on trust land. A program like Section 184 would go far in remedying this situation.

Also, we would like to point out that with more mortgages on trust land, which we hope is the future of the San Carlos Apache Reservation, comes the creation of certain other issues related to homeownership on the Reservation. Specifically, those tribal courts that will have jurisdiction over foreclosure proceedings under tribal housing ordinances may need more funding depending on the expansion of their dockets as a result of these new cases. Also, tribal governments will likely need more funding at some point to create and administer adequate realty recording systems.

Additional Recommendations

The San Carlos Apache Tribe respectfully submits the following additional recommendations to improve the housing conditions not only on our Reservation but also all across Indian Country.

Native American Housing Block Grant: Increase funding for the Native American Housing Block Grant by at least 3% each year to $1.075 billion by 2007. Data generated by the National American Indian Housing Council shows that $1.075 billion annually is the minimum necessary amount to begin to sufficiently address Indian housing needs. With all due respect, the President's proposed budget of $647 million for FY 2005 for the Native American Housing Block Grant is simply not enough, especially considering the rising rate of inflation, building costs, and the increase in the Indian population. I must also add that the current allocation that the San Carlos Apache Tribe receives does not at all meet the needs of tribal housing on our Reservation.

BIA Housing Improvement Program: Increase funding for the BIA's Housing Improvement Program, which as been funded at the same level for many years. This program is very helpful in assisting tribes to rehabilitate homes. We urge the Congress to increase the funding for this program to $35 million.

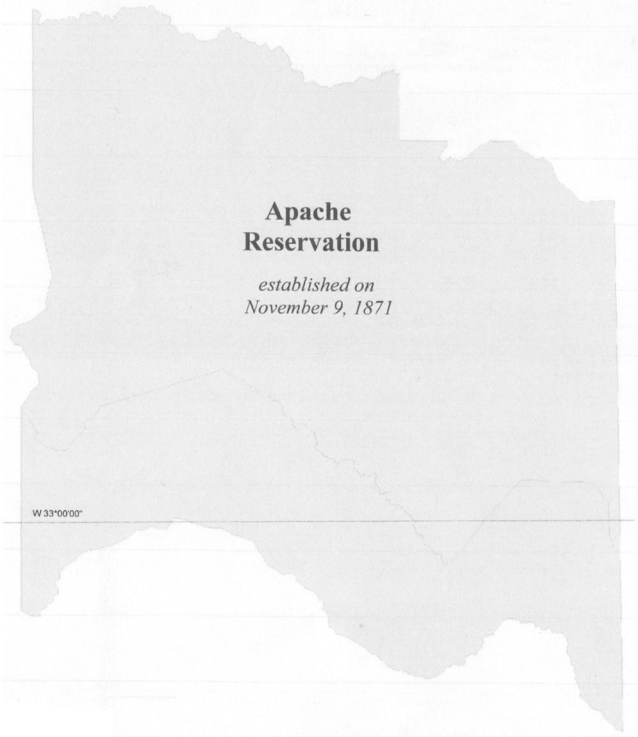
NAIHC Technical Assistance Funding: Restore funding for this program of the that enables our Tribe and other tribes to improve their housing capacity. Until recently, NAIHC had received more than $4 million annually to conduct technical assistance and training for tribes. The President has proposed for FY 2005 only $2.5 million for this purpose.

Indian Health Service Sanitation Facilities Construction Funds: Eliminate the requirement of the Indian Health Service that tribes cannot use sanitation facilities construction funds to service HUD-funded homes. The Indian Health Service feels that HUD should fund its own infrastructure out of NAHASDA. If NAHASDA were funded in such a way that both houses and infrastructure could be built, then the Indian Health Service's position would make sense. However, given the underfunding of NAHASDA and due to this prohibitive requirement of the Indian Health Service, tribes must choose between housing or infrastructure. We need both, as I have discussed above. The San Carlos Apache Tribe would like to see funding increase to $180 million to effectively meet housing and water and sewer infrastructure needs.

The Use of 2000 Census by HUD for Indian Housing Block Grant Distributions: We believe that HUD failed in its obligation to negotiate in good faith in the 2003

negotiated rulemaking process on the issue of whether to use 2000 Census data in lieu of tribal enrollment data in calculating Indian Housing Block Grant distributions. Until recently, HUD determined Indian Housing Block Grant distributions based upon tribal enrollment information of tribes. HUD, despite our objections and the objections of many tribes across the country, announced that it would use the 2000 Census to determine grant distributions. For the 2000 Census, respondents self-identified whether they were Indian and to what tribe they were affiliated. Many people self-identify with a certain tribe but are not actually members of that tribe. Therefore, use of this data instead of tribal enrollment data does not provide accurate information for determining the funding needs of a tribe.

Thank you for the opportunity to testify today. I would be pleased to answer any questions you may have.


Original Apache Reservation
Apache
Reservation
established on
November 9, 1871
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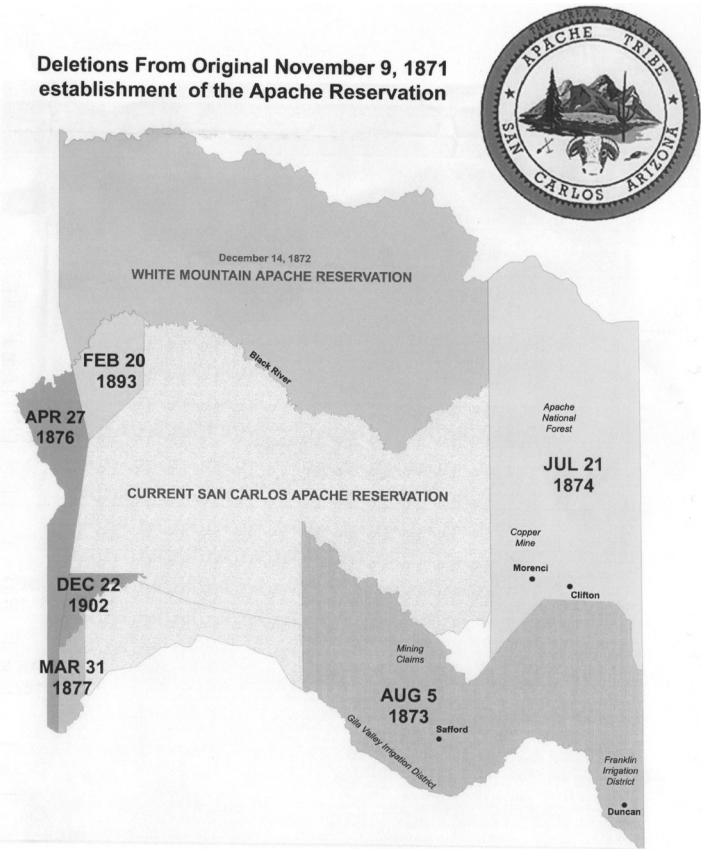
Deletions From Original November 9, 1871
establishment of the Apache Reservation
APACHE TRIBE
SAN CARLOS ARIZONA
December 14, 1872
WHITE MOUNTAIN APACHE RESERVATION
Black River
FEB 20
1893
APR 27
1876
Apache
National
Forest
JUL 21
1874
CURRENT SAN CARLOS APACHE RESERVATION
Copper
Mine
Morenci
Clifton
DEC 22
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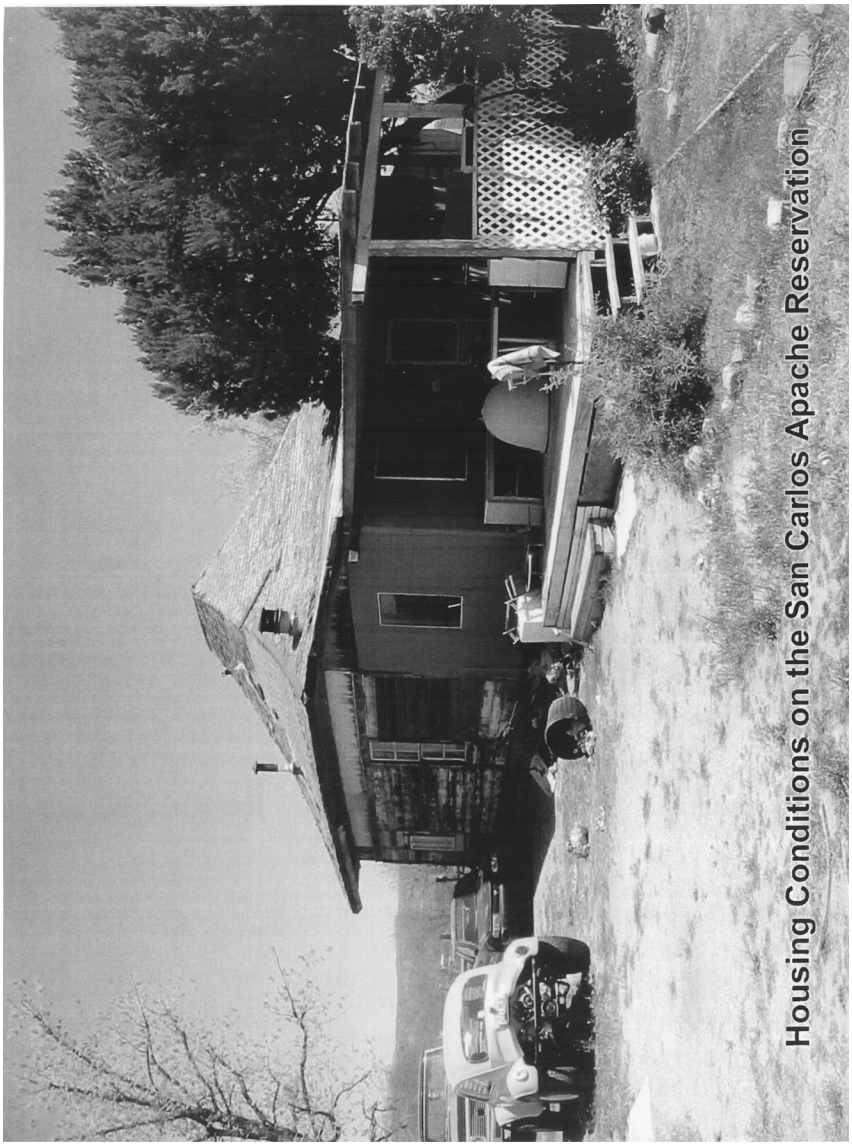
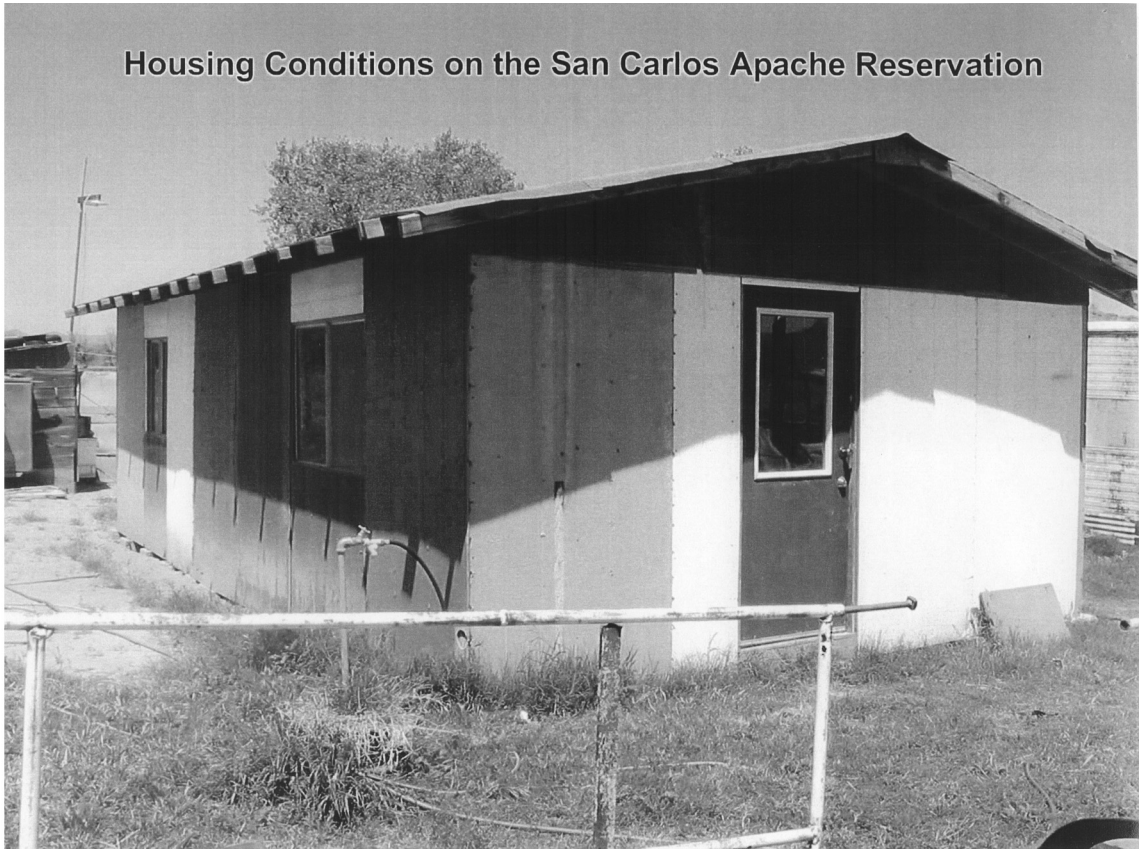


Housing Conditions on the San Carlos Apache Reservation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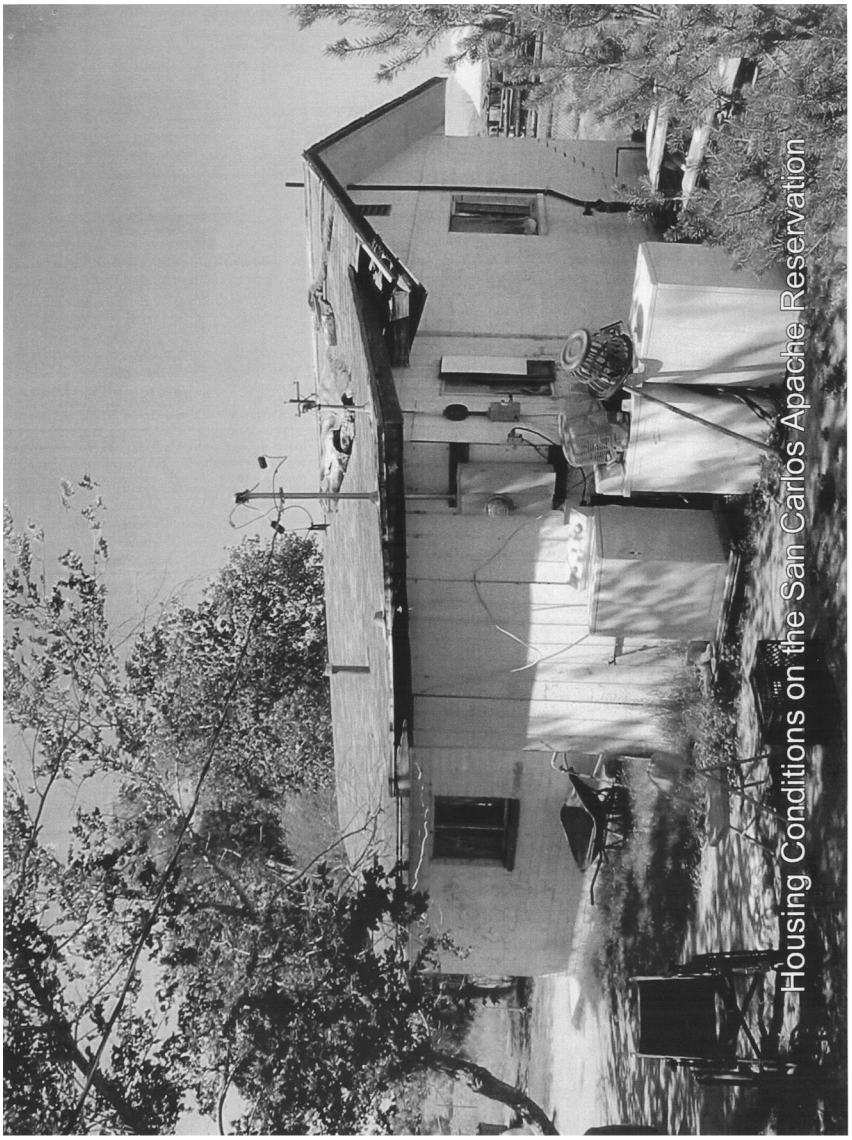

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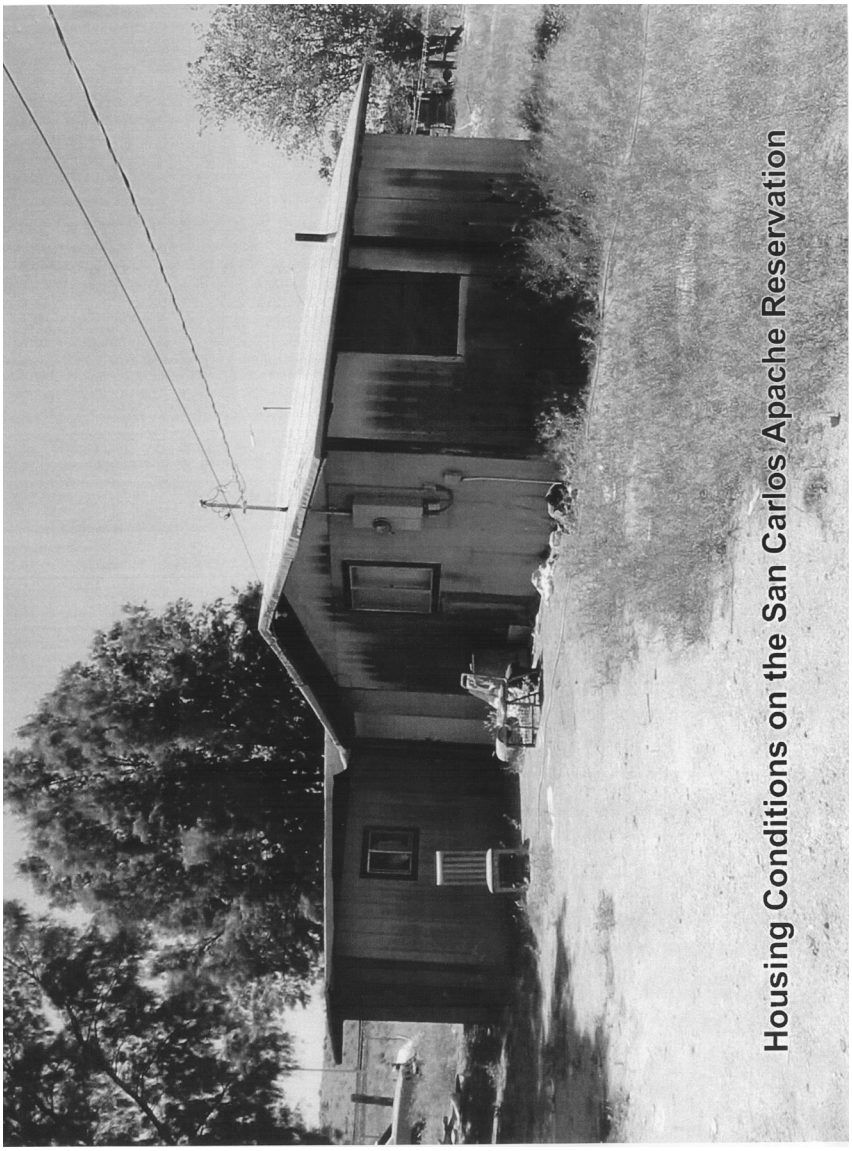

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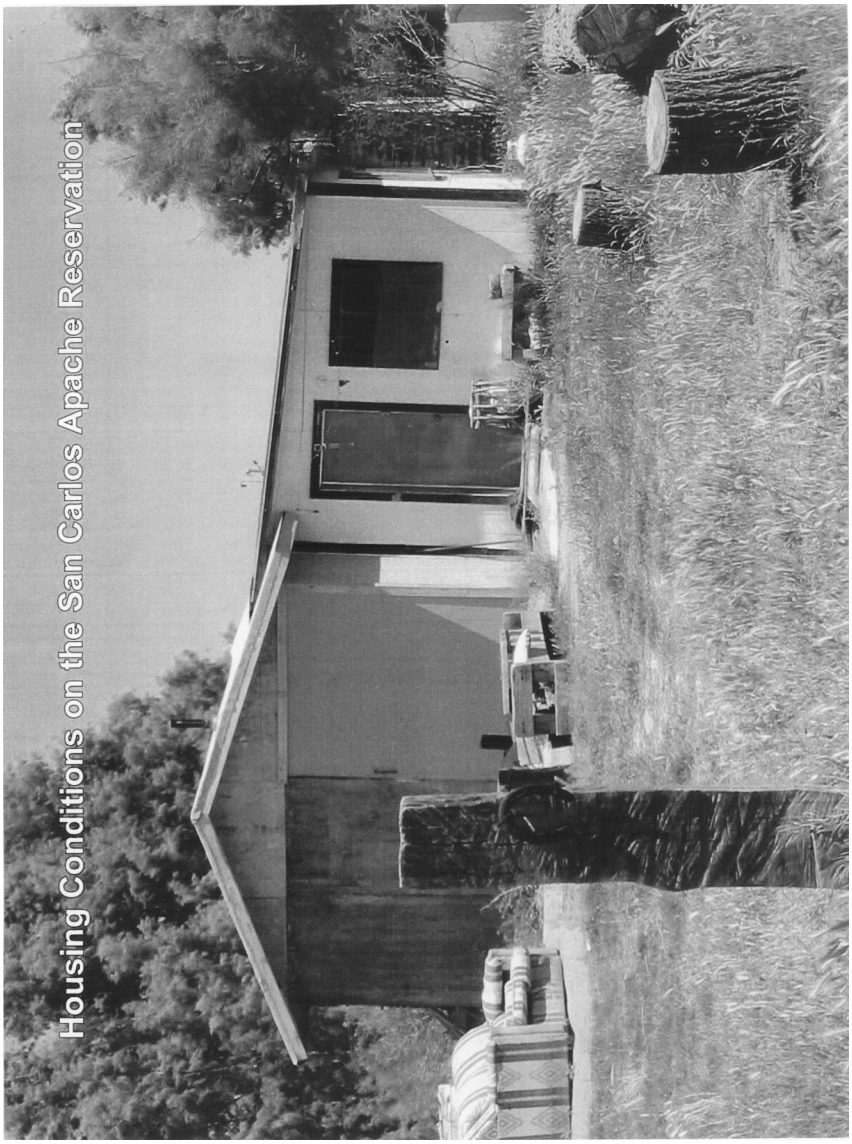
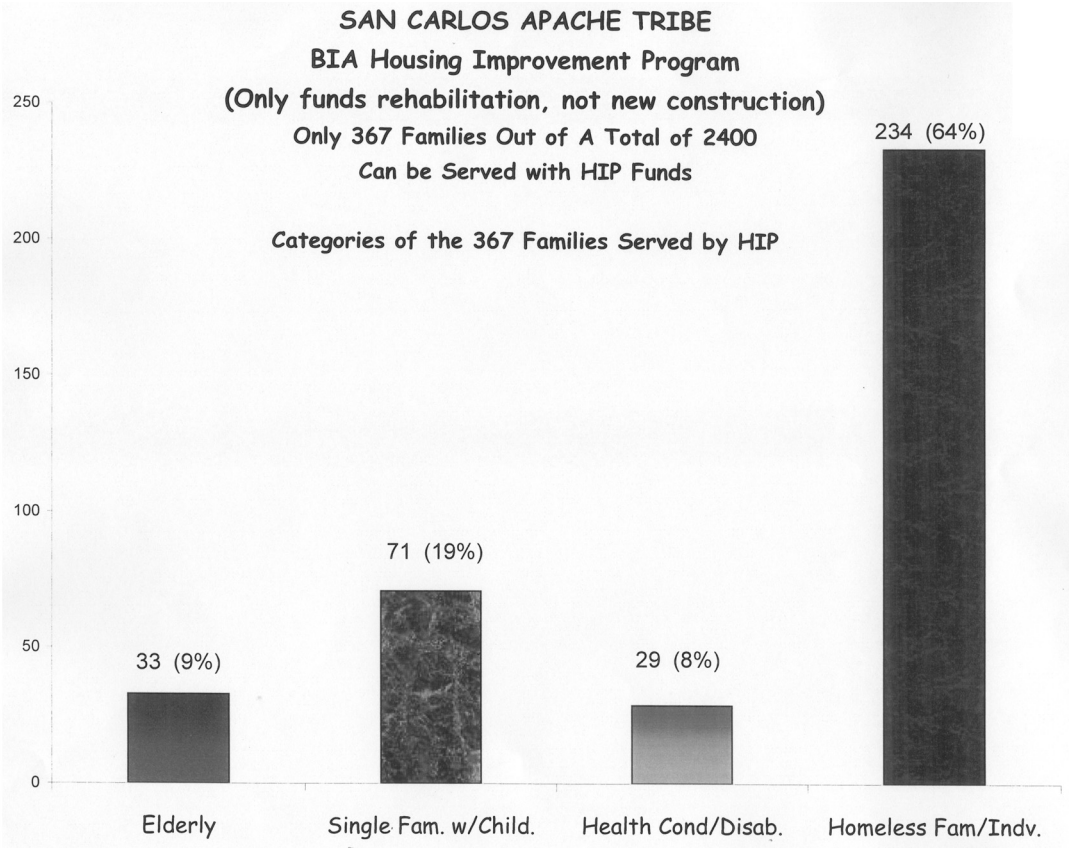

Housing Conditions on the San Carlos Apache Reservation

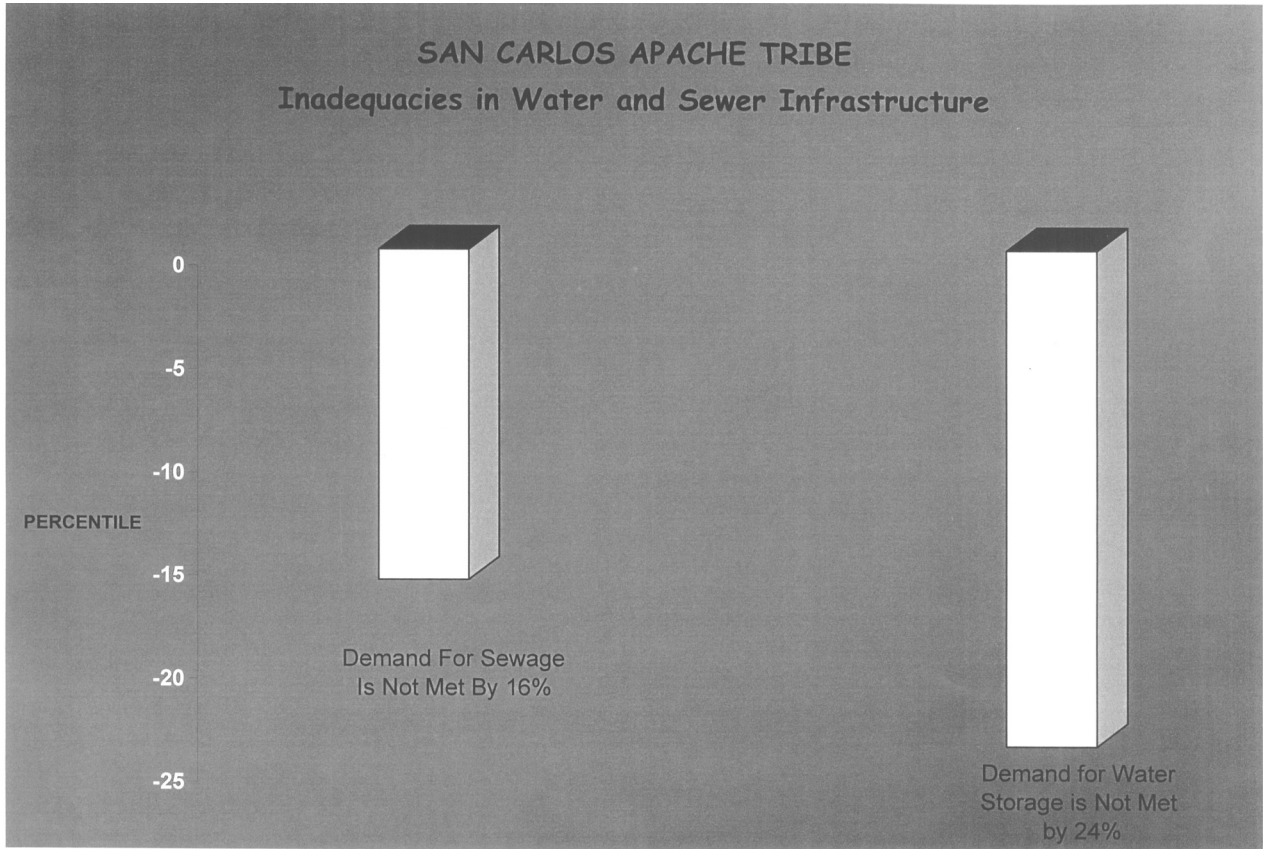
THE SAN CARLOS APACHE TRIBE

THE DIRE HOUSING NEED ON THE SAN CARLOS APACHE RESERVATION:

- **2400 Families on the Reservation Need Homes**
- **39% of Families Live in Substandard Housing**
- **40% of Families Live in Overcrowded Conditions**
- **94% of 3,067 Total Families are Considered Low Income Under NAHASDA**

IT WOULD TAKE BUILDING 125 HOMES A YEAR FOR 10 YEARS TO MEET TRIBAL HOUSING NEEDS


SAN CARLOS APACHE TRIBE
BIA Housing Improvement Program
(Only funds rehabilitation, not new construction)
Only 367 Families Out of A Total of 2400
Can be Served with HIP Funds
Categories of the 367 Families Served by HIP
250
200
150
100
50
0
33 (9%)
71 (19%)
29 (8%)
234 (64%)
Elderly
Single Fam. w/Child.
Health Cond/Disab.
Homeless Fam/Indv.


SAN CARLOS APACHE TRIBE
Inadequacies in Water and Sewer Infrastructure
PERCENTILE
0
-5
-10
-15
-20
-25
Demand For Sewage Is Not Met By 16%
Demand for Water Storage is Not Met by 24%

Written Testimony of

Renee Konski
Senior Loan Specialist
American Financial Resources, Inc
&
Member, Board of Directors,
Member, Loan Committee
Navajo Partnership
For Housing

Improving Housing Opportunities for
The Native Americans

Submitted to the U.S. House of Representatives
Committee on Financial Services
Subcommittee on Housing and
Community Opportunity

May 3, 2004

Good afternoon Chairman Ney and Members of the Committee. My name is Renee Konski, and I am a Senior Loan Specialist for American Financial Resources, Inc. I would like to thank you for this opportunity to talk about Native American lending and homeownership. I want to personally thank and acknowledge Congressman Rick Renzi, for his leadership as member of this Committee from Arizona. I also want to thank and acknowledge Congresswoman Maxine Waters whose office extended an invitation to me, and made my participation possible this afternoon.

American Financial Resources, Inc. is an Arizona State owned and operated Banker/Broker (bk#14268) with over ten years experience in the mortgage finance business. Our lending footprint covers six states. American Resources, Inc. prides itself with ownership involvement in the daily operations of our organization. While I can boast about American Financial's experience in the mortgage finance business, I must confess that my experience in Native American lending is only four years old. In that time I have learned many things through the partnerships I have helped develop. I am aware of how each family and situation is unique and contains its own challenges. My personal desire is to discover and experience the challenges I may not have encountered yet, and then educate others on these challenges.

What I would like to offer this afternoon is to acknowledge my partnerships and share my experiences, express to you how these programs are working, offer a lender's perspective on the largest obstacles to improving housing opportunities for Native Americans, and some recommendations for removing these obstacles.

Partnerships and Experiences

Five years ago, I developed a desire to pursue my interest in a loan that I anticipated would be both challenging and unique. That is when I began my research in lending on trust land. I attended classes offered by Rural Community Assistance Corporation, taught by Mr. Joe Waters, and soon learned that I was the only lender attending. I am eternally grateful for the funding that makes these classes available, because without them, it would have been nearly impossible to progress. RCAC helped me to understand the obstacles confronting the tribes, families and lenders. It was here I first became aware of the requirements of the tribes to become eligible to offer mortgages to their families. RCAC, and Mr. Joe Waters then referred me to Mr. Paul Jankowski, Director for the HUD 184 Native American Program.

It was a short time later I was educated on the HUD 184 instrument as a tool to begin my Native American lending career. Working directly with the staff, Ms. Deanna Lucero, I began the process of becoming a HUD-approved 184 lender. This required training was provided directly by the program. After my completion of training and subsequent approval, I had access to a program that would offer Native American families the

opportunity of a mortgage. This program was so similar to the basics of other HUD programs, it was easy to understand, and flexible enough to address many types of land issues. As an approved lender, I have closed both the purchase mortgage transaction, and the refinance mortgage transaction.

My refinance transaction was most memorable, as I was able to help a family reduce their monthly mortgage by more than $700.00 per month. The mortgage which this family had originally obtained had a high interest rate, with a two-year pre payment penalty, and an adjustable rate that increased in the third year. Since this family resided outside of their own tribal service area, I contacted the tribe in which service area the family had resided. I requested permission to assist this family obtain a 184 mortgage within this service area. The approval was received within twenty- four hours. This mortgage offered a 30-year fixed-mortgage rate, without the cost of monthly mortgage insurance. This was a savings of over $700.00 per month from the existing mortgage.

I might add that the relationship built with the servicing tribe was cultivated during my attendance at a conference on Native American Lending sponsored by the Arizona Department of Housing. I believe that my request to serve the family I mentioned was expedited by building this relationship.

As most recently as April 30, 2004, I completed a transaction with the Cocopah Housing and Development. This project consisted of nine mortgages submitted, underwritten, and approved by the HUD 184 program. This project made possible fixed-rate, thirty-year mortgages that will provide two triplex one- bedroom units, two triplex two-bedroom units and five single-family three-bedroom units for a total of seventeen units. These loans were offered to the Cocopah Housing and Development as the borrower, and are assumable to families within the tribe in the near future.

My next partnership came when I developed a relationship to sell these loans on the secondary market. This is where Fannie Mae became my newest partner. With the guidance of the many offices within Fannie Mae, I learned of the secondary market to sell these mortgages. Along with the market to sell the mortgages was a program to offer conventional lending. The program, called Native American Conventional Lending Initiative (NACLI), offered a lending tool to make conventional mortgages possible. I have successfully closed two conventional mortgages that were underwritten by American Financial Resources, Inc. and sold to Fannie Mae under the NACLI program. Since American Financial Resources, Inc. is an approved Fannie Mae lender, we utilize the automated underwriting system, and participate as a sponsor for the Fannie Mae automated underwriting system called desktop originator. This is an automated underwriting system that we have made available to our tribes that provides them with the ability to determine eligibility of a conventional loan product.

Fannie Mae also introduced me to the One Stop Mortgage initiative. This initiative has greatly contributed to the success in streamlining the standards for mortgage documents, and offered many tribes the opportunity to develop leases and foreclosure procedures that are acceptable, and uniform. When I am asked if this One-Stop initiative works, the answer is YES.

Throughout this period, I had already begun utilizing the Rural Development 502 Guarantee loan as a product for fee simple land. I was familiar with the program and had already secured many mortgages for families in rural areas of Arizona, all of which were done on fee simple land. Upon meeting with USDA State Director Eddie Browning and Rural Housing Loan Specialist Alan Watt, I was made aware of their interest to participate in trust land guaranteed loans. We successfully closed the first USDA guarantee loan on trust land with a family from the Navajo Tribe. This mortgage was guaranteed by USDA and then purchased on the secondary market by Fannie Mae.

During this entire period, I was introduced to the Navajo Partnership for Housing, Inc., a 501 (c) non-profit and member of the national NeighborWorks network, located on the Navajo Nation. This was a partnership that educated me as to the great need for affordable housing and homebuyer education. I became so impressed with NPH that I requested to join the organization and offered to assist with my experiences as a private lender. Through my ideas and opinions, together NPH and American Financial Resources, Inc. have brought private mortgage opportunities to several Navajo families. In January of 2004, I was nominated to join NPH's Board of Directors.

Recently I have worked with the Developers of Karigan Estates. This is a sub-division with greater than two-hundred homes that will provide single family housing in the St. Michael, Arizona area, located on the Navajo Nation. Together we are on the precipice of the next phase of this master plan community. As a lender familiar with the needs of the families, guidelines of the various programs, and land issues, I have the opportunity to work directly with the builders and developers and address the issues that surround many of the Navajo families.

How Programs Are Working

Members of the subcommittee, I want to reassure you that federal programs are working on Tribal land, and I am here today to testify that solid partnerships can make dreams of home ownership with mortgage opportunities for many Native Americans come true. There is so much more I could add about the organizations of Rural Community Assistance Corporation, HUD 184 Native American Program(s), Fannie Mae, USDA, Navajo Partnership for Housing, Neighborhood Reinvestment Corporation, Karigan Estates, and several of the Tribes. What is important to note is that the basic

communication of these organizations working together have made so many opportunities become realities.

I don't need to tell you that there is an overwhelming need for affordable housing on Tribal land, and even with the current level of federal funding this housing need will not be adequately met without access to private mortgage and interim construction financing.

Many Native Americans typically have very low incomes, which average about half that of the rest of the United States. Of the over 180,000 residents of the Navajo Nation alone, the median income barely exceeds $20,000 per year. One third of Native Americans live in poverty. They are more likely to die of disease or alcoholism than other Americans, and they are victims of violent crimes at a rate greater than three times the national average.

Native Americans living on reservations suffer severe housing distress. Even middle- and upper-income Native Americans on reservations are confronted by substandard housing, which is aggravated by a lack of access to "private" home mortgages and infrastructure and industry needed to build new homes.

But, I have come to realize there many Native Americans want to "earn the own way" to homeownership.

A Lender's Perspective on Issues Around Mortgage Lending on "Trust Properties"

Land Status

Mortgages can be issued only when the tribe approves a lease, which allows for leasehold improvements. Many banks are anxious about this land arrangement and will not become involved unless the land is held as fee simple private property, of which there is very little.

This is a lengthy process for obtaining a home site lease and obtaining all the required Tribal and Federal (BIA) reviews and approval. Also, because we are dealing with Federal Trust lands, numerous other environmental and archaeological reviews and approvals are required which add another layer of time consuming activity, which frustrates both lenders and potential home buyers.

Recording and Timely Retrieval of Title Status Reports

In order to perfect financing arrangements, recording and having timely access to Title Status reports is crucial. In the lending world, time really is money. For example, I have seen Navajo families who had to pay three to six months of accrued interest on interim construction loans while waiting for the recording and receipt of Title Status Reports to close the permanent first mortgage. This is unfair to the families. This rarely happens in the lending world outside the reservation.

Lack of Public Access to Land Ownership Documents

When a family wants to determine ownership of a vacant lot, or an existing particular piece of property (a house), the typical first step is an inquiry of city planning or county records. This is hardly the case on the Tribal Land. Such access to records is restricted to the actual owner. The BIA considers this information "private and confidential". Here again, this does not facilitate the "buying and selling" of real estate. For instance, I am aware that NPH had identified 21 vacant lots in a Navajo sub-division. When they asked the BIA, NPH was told they could not release the ownership information. NPH was told they had to get written permission from the land owners in order for BIA to release the information. How can NPH find the owner to get written permission? If NPH knew the owners, they wouldn't be asking for ownership information from the BIA in the first place. These types of regulatory barriers further complicate an already difficult process.

Title Insurance

Although title insurance is not required under the HUD 184 mortgage, I have recently encountered four major Title companies that have denied a request to complete an escrow-only transaction. I have been told that it does not make sense for them to participate in an escrow-only transaction from a liability and cost effectiveness standpoint. In many instances where title insurance is mandated, title companies require a deposit in advance, and it is also the lenders responsibility to provide the title company with the most recent Title Status Report. Again, we are dealing with a time sensitive issue that does not effect the fee simple transaction.

Title Insurance Restrictions in New Mexico

A problem has arisen concerning a residential mortgage on a "residential lease" located within a Navajo Indian allotment on the New Mexico portion of the reservation. Specifically, in order to close both the interim construction loan and the USDA Rural Development 502 Guaranteed permanent, an acceptable title insurance policy must be obtained. The title insurance company has declined to issue a title commitment based

upon the belief that the Title Status Report may not identify all of the heirs of the allotment, and because of possible title conflicts with mineral leases. This would also affect any conventional first mortgage, which requires title insurance. An interim solution was being sought by attempting to have first mortgages guaranteed through the HUD 184 program. HUD requested a letter from the Navajo Department of Justice indicating that the Navajo Nation has no involvement with the residential lease on Individual Indian Allotments. As of today, I am not aware of any action on this matter.

Lack of Capacity in Tribal Government and the Bureau of Indian Affairs

Both agencies need additional staff and resources to deal with the requirements of timely processing of real estate transaction, mortgage and land related documents. Staff shortages result in unnecessary delays. It is a requirement of the lender to have obtained a new Title Status Report upon completion of the mortgage transaction. Some programs require this revised TSR before they will guarantee the mortgage. The exposure of three to six months of no loan guarantee makes lending on trust land undesirable, without even considering the overhead in following up with the BIA to ensure the TSR arrives. What is not realized is that in an active "buy and sell" real estate market, processing of real estate transaction documents is crucial to the process.

Conclusion and Recommendations

I would like to thank the Subcommittee for the opportunity to testify about the challenges facing Native populations in obtaining homeownership on trust properties.

In summary I would make the following recommendations:

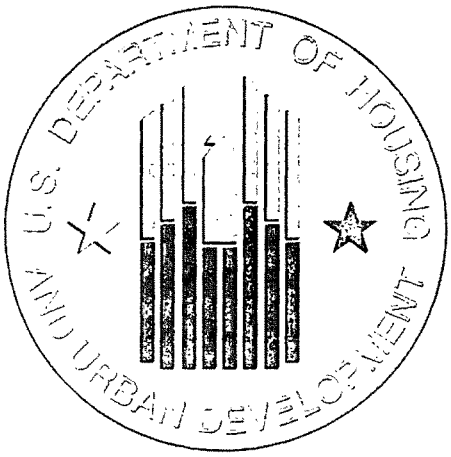
1. The process to "free" land for home-site leases and to obtain all the clearance required needs to be streamlined so that the entire transaction can occur within a three to six month period.
2. The recording and timely retrieval of Title Status report needs to be reduced drastically to a three- to five-week time frame. Privatization of this function should be highly considered to improve efficiency.
3. Public Access to land ownership documents needs to be allowed. Whatever policy or regulatory change is needed, the BIA should address that matter.
4. Encumbrance of lot assignments for financing purposes within approved Navajo Nation master leases for housing sub-division should become a standard provision. To address the problem outlined earlier in my testimony, the Navajo Government administration and attorneys should do what ever is necessary to help their people.
5. Regarding the lack of Title Insurance on Indian Allotments, the Navajo Nation government, attorneys and all other interested and affected parties need to resolve

this problem. NPH has five clients who cannot move forward toward home ownership until this issue is resolved.

6. Lastly, both governmental entities involved in the review and approval of real estate transactions, mortgage documents and land related documents need to be adequately staffed, with adequate budget resources given to them to get the job done.

I would like to thank RCAC, the HUD 184 Native American Program, the Arizona Department of Housing, Fannie Mae, USDA, Navajo Partnership for Housing and Neighborhood Reinvestment Corporation, Karigan Estates, and especially the tribes and the families; each experience with you has made me a better person. Thank you, Members of the Subcommittee, for the opportunity to express my experiences and recommendations.

STATEMENT OF MICHAEL LIU
Assistant Secretary
Public and Indian Housing
U.S. Department of Housing and Urban Development



BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

May 3, 2004

INTRODUCTION

Mr. Chairman and Members of the Committee, thank you for inviting me to this hearing on "Improving Housing Opportunities for Native Americans."

My name is Michael Liu, and I am the Assistant Secretary for Public and Indian Housing. I am responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to 562 federally-recognized Indian tribes. We serve these tribes directly, or through their tribally designated housing entities (TDHE), by providing grants and loan guarantees designed to support affordable housing, community and economic development activities.

It is a pleasure to again visit the Navajo Nation, and I would like to express my appreciation to Navajo Nation President Joe Shirley, Jr. for inviting us. I would also like to acknowledge the other tribal leaders who are here today, as well as the other witnesses and members of the public who've taken time from their busy schedules to talk about how we can work together to improve housing conditions for Native American families living in Indian Country.

Tribes are taking advantage of new opportunities and improving housing conditions for their Native American families. This momentum needs to be sustained as we continue to work together to create a better living environment in Indian Country.

OVERVIEW

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with federally-recognized Indian tribes. HUD is committed to honoring this fundamental precept in our work with Native Americans.

I'll begin my presentation by briefly outlining our programs, going over the numbers in the President's Fiscal Year 2005 budget request, and then I'd like to discuss an issue that I believe is of interest to the Committee: the large credit authority balances in our loan funds, and how we are aggressively working with tribes and lenders to get much-needed capital into Native American communities for homeownership.

Summary of ONAP's Programs

Indian Housing Block Grant (IHBG) Program

The IHBG Program, authorized by the Native American Housing Assistance and Self-Determination Act of 1996, as amended (NAHASDA), provides a formula grant based on the need for affordable housing within each Native American community and the number of dwelling units currently in management that were developed with funds allocated under the U.S. Housing Act of 1937. There are six eligible affordable housing activities, and they encompass: housing construction

and acquisition; housing rehabilitation; operating subsidies; housing management services and administration of the housing entity; crime prevention and safety; and certain model activities as specifically approved by the Secretary.

NAHASDA is designed to provide Federal housing assistance for federally-recognized Indian tribes in a manner that recognizes the right of tribal self-governance. It reorganized the system of Federal housing assistance to Native Americans by eliminating several separate programs and replacing them with the single, formula-based IHBG Program.

Indian Housing Loan Guarantee Program (Section 184)

The Section 184 Program provides a 100 percent guarantee for loans to income-eligible and credit-worthy Native American families, Indian tribes or their tribally designated housing entities to purchase, construct or acquire single family homes on Indian trust or restricted lands, land within the service area of an IHBG grant recipient, and in other designated Indian areas.

The reluctance of the private lending market to engage in mortgage lending on trust land prompted creation of the program in 1992. The program has made homeownership a reality for many Native American families. The 100 percent guarantee, combined with lower closing costs, is attractive to both lenders and borrowers. Tribes must have a functioning tribal court system (or enter into an agreement with another adjudicatory entity), and enact ordinances covering foreclosure, eviction, and related matters. A direct result of the program is that it provides an opportunity for lower- and moderate-income families living on reservations to move from subsidized housing units, thus freeing up that housing for use by low-income families. More details on how the program operates are contained in the section on loan initiatives that I will discuss in a few moments.

Federal Guarantees for Financing for Tribal Housing Activities (Title VI)

The Title VI loan guarantee program is available to IHBG grant recipients in need of additional funds to engage in NAHASDA-eligible affordable housing activities. It provides a mechanism for tribes and tribally designated housing entities to leverage IHBG funds to secure financing. A private lender or investor provides the loan, and the government guarantee ensures repayment in the event of default. If there is a default, the government will seek repayment through the borrower's IHBG funds. A primary purpose of the program is to leverage IHBG funds with other funds, public and private, to gain greater economic benefit. I will also discuss this program in more detail in a subsequent section of my testimony.

Indian Community Development Block Grant (ICDBG)

The Indian CDBG program is available to federally recognized Indian tribes, including federally-recognized Alaska Native groups, and to certain tribal organizations. The objective of the program is to assist eligible recipients to develop viable communities, including decent housing, a

suitable living environment, and economic opportunities, principally for persons of low and moderate income. Eligible activities include housing, community facilities and economic development. Annual grants are competitive; the funds are suballocated regionally to each Area Office of Native American Programs, and potential grant recipients compete within each region for the available funds.

BUDGET SYNOPSIS

For FY 2005, the President's budget proposes a total of $724 million dollars, specifically for Native American housing in HUD. $647 million would be appropriated under the Native American Housing Assistance and Self-Determination Act for HUD's Indian Housing Block Grant Program. Of that amount, approximately $640 million is for direct, formula allocations. $5.4 million would be available for training and technical assistance to support these programs. $1.85 million in credit subsidy, which will leverage $17.9 million in loan guarantee authority, is proposed for NAHASDA's Title VI Tribal Housing Activities Loan Guarantee Fund. $71.575 million is for grants under the Indian Community Development Block Grant Program, and $1 million in credit subsidy, which will provide $29 million in loan guarantee authority, is for the Section 184 Indian Housing Loan Guarantee Fund.

Finally, the Department requested $3 million to support Tribal Colleges and Universities.

INDIAN HOUSING BLOCK GRANT PROGRAM (IHBG)

Adjustments within the IHBG program account have been made to allow more funds to be available for direct tribal use. As with last year's request, reducing set-asides results in an increase in IHBG grant dollars available to tribes. For example, last year there was $2.72 million set aside for the Working Capital Fund. This year, we are requesting that only $500,000 be put aside for this purpose.

HUD TRAINING AND TECHNICAL ASSISTANCE

Training and technical assistance remains a critical component of the IHBG Program. The Training and Technical Assistance set-aside is $5 million, which has provided the initial training and technical assistance to most grantees, enabling them to function effectively under NAHASDA.

NAIHC TRAINING AND TECHNICAL ASSISTANCE

The President's Budget includes a $2.485 million set-aside from the Community Development Fund to continue the support provided to the National American Indian Housing Council.

WORKING CAPITAL FUND

The Department's request of $500,000 for the Working Capital Fund will help provide information technology and data resources to support enhanced program assessments, performance measurements and accountability.

TITLE VI TRIBAL HOUSING ACTIVITIES LOAN GUARANTEE FUND

The Title VI Tribal Housing Activities Loan Guarantee Fund (Title VI) is also a set-aside under the IHBG Program. The President's Budget requests $2 million in credit subsidy to continue loan activities at previous levels.

The program's subscription rates have been lower than anticipated. The current funds available will provide over $392 million in loan guarantee authority, which is more than the program could use. Therefore, this budget proposes to cancel $21 million of unused credit subsidy. However, the 2005 request will support $17.9 million in loan guarantee authority, which will be sufficient to cover future program needs.

SECTION 184 INDIAN HOUSING LOAN GUARANTEE FUND

The President's budget request for this program is $1 million. Each year, as required by the Credit Reform Act, the Section 184 Indian Housing Loan Guarantee Fund credit subsidy rate is recalculated. Subscription rates have been lower than anticipated here as well. The current funds available will support over $811 million in loan guarantee authority, which is more than the program could use. Therefore, this budget proposes to cancel $33 million of unused credit subsidy. The 2005 request of $1 million in credit subsidy will support $29 million in loan guarantee authority, which will be sufficient to cover future program needs.

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The President's FY 2005 request for the Indian Community Development Block Grant Program is $71.575 million.

TRIBAL COLLEGES AND UNIVERSITIES

The President's budget request for HUD includes, under the Community Development Fund, $3.0 million for competitive grants to tribal colleges and universities to provide resources to build, expand, renovate and equip their facilities.

LOAN GUARANTEE FUNDS, BALANCES AND INITIATIVES

Creating homeownership opportunities continues to rank at the top of this Administration's priorities for the American people, and nowhere is this more important than in the Native American community. The potential for HUD's Native American loan guarantee programs to generate large

numbers of housing units is great, but tribes and their TDHEs are not taking advantage of this source of funding.

Section 184

The Section 184 Loan Guarantee program offers the lender a 100 percent guarantee of the outstanding principal and interest due, plus other allowable costs. The program has a minimal down payment requirement of 2.25 percent, no income limits, a low guarantee fee of only 1 percent, very flexible underwriting, and it can be used for loans on 1-to-4 family dwellings, including construction loans.

Applying for a loan is simple. Once the tribe has enacted the appropriate mortgage, lien priority and foreclosure and eviction ordinances, a borrower goes to one of over 150 approved lenders. Over 130 Tribes have enacted the mortgage ordinances that permit leasehold mortgages. A complete listing of all participating lenders and tribes may be found at the Office of Native American Programs website "CODETALK." The address is www.codetalk.fed.us.loan184.html. The site is updated monthly, and it also contains the 2004 Section 184 training schedule for 2004. Interested parties without Internet access should call the ONAP Office of Loan Guarantee in Denver at (800) 561-5913 to obtain copies of these materials.

Who is an eligible borrower? A tribe eligible to participate in NAHASDA's Indian Housing Block Grant program, or a member of such tribe, is qualified to participate so long as the property subject to the mortgage is located within the tribe's area of operation. It is important to note that all tribes are eligible—as are their members—to obtain Section 184-guaranteed mortgages. If the land is trust or restricted land, the appropriate leasehold interests must be obtained, and this aspect of the program's requirements has proven to be more challenging in many instances.

An individual Native American must occupy the property as a principal residence. Tribes and TDHEs may borrow to develop 1-to-4 family units for resale, or they can rehabilitate existing units, create rental housing for their members, or refinance existing indebtedness. A mortgage or Deed of Trust is the operative document.

As tribes and TDHEs have become more familiar with the program, the number of loans approved each year has increased. For example, there were 184 loans guaranteed in FY 2002, 271 loans in FY 2003, and, as of the end of March, 2004, 197 loans Section 184 loans had been approved.

The Department, in cooperation with Section 184 loan servicers, has kept defaults and subsequent claims to an absolute minimum. Lender claims have generally been processed and paid within 45 days of the time the required documentation was submitted to the Office of Loan Guarantee. To date, we have guaranteed over 1,500 loans, and less than a dozen claims have been made.

Title VI

The Title VI Tribal Housing Activities Loan Guarantee Program has been a tool for developing and strengthening reservation economies.

The Office of Native American Programs is targeting its training and technical assistance activities in the upcoming year to help tribes and their tribally designated housing entities learn more about this program and take advantage of this valuable resource.

Although the program has been in existence since 1996, when NAHASDA became law, we continue to see it underused. Under the program, any NAHASDA-eligible tribe or TDHE with no significant audit findings can leverage Indian Housing Block Grants.

There are three steps in the Title VI process:

- The request for a Preliminary Letter of Approval (PLA) is generated by the borrower. This is to ensure that the planned activity is an eligible affordable housing activity under NAHASDA, that the borrower demonstrates administrative capacity and does not have any significant monitoring issues with its local ONAP, and that it has done preliminary work regarding the overall feasibility of the proposed project.

- The lender submits the Application for Firm Commitment to the ONAP Office of Loan Guarantee (OLG) after gathering underwriting documentation and issuing their loan approval. Their submission includes legal opinions, borrowing resolutions and sample legal documents, including the proposed rates, fees and other borrowing terms. The OLG's Firm Commitment triggers the establishment of the relevant record keeping requirements within the Department.

- The loan is closed, signed documents are given to the OLG for review, and the Loan Guarantee Certificate is issued to the lender. If there is a default, and a claim, we anticipate that the claim can be paid within 30 business days. To date, there have been no claims filed.

Foreclosure is not an issue in the Title VI program, as the promissory note and loan agreement defines default, and there are no real property or leasehold interests to be foreclosed upon. The security to the lender is a full faith guarantee of the Federal Government for 80 percent of any pro rata loss of principal and interest due.

Title VI guaranteed loans have been used by borrowers to construct or purchase rental and homeownership units, to provide infrastructure and to transport excess military housing and rehabilitate it for use by tribal members. Banks can lend for infrastructure and affordable housing for NAHASDA-eligible families. To date, our Title VI guarantees have supported $77 million in loans to tribes or their housing entities, but again we have a significant amount of unused loan guarantee authority.

These loans have supported a broad array of affordable housing activities. For example, the Salish and Kootenai Housing Authority purchased and renovated a mobile home park and enhanced its housing management capability with hardware and software acquisition; the Chippewa Cree Tribe moved surplus military housing from an Air Force base, using Title VI funds for the transportation, rehabilitation and infrastructure development for the project. Several housing entities in Alaska developed additional rental and homeownership projects by leveraging their IHBG funds with a Title VI loan, and the White Mountain Apache Tribe in Arizona financed the construction of water and wastewater infrastructure for their 300-unit Apache Dawn project.

Let me focus for a moment on the cancellations in these loan programs. The Department proposes to cancel unused credit subsidy of approximately $54 million, which has accumulated in the Section 184 and Title VI loan funds over the past four-to-five years. This enabled us to preserve full funding for FY 2005 at the FY 2004 request levels in all Native American programs. The cancellation will not occur until the end of FY 2005. Any unused credit subsidy that has been committed by that time will not be cancelled.

There has been a significant increase in Section 184 loan guarantee activity over the past fiscal year, proving that tribes and TDHEs are taking the necessary steps to participate in the program. This is important because moving families into their own homes frees-up subsidized housing units for lower-income families, and it creates economic opportunities for entire communities.

In fiscal year 2003 alone we increased the number of Section 184 loan guarantees by 271, the most since the program's inception. With over 1,500 Section 184 loans guaranteed for a total dollar volume of over $151 million dollars, we anticipate more loans closed in FY 2004 than ever before.

I have directed the Office of Native American Programs to focus on increasing tribal interest in loan guarantee activity through outreach, training and technical assistance designed to make tribes aware of these programs, aid them in applying for assistance, and following through to ensure that proposed projects reach completion.

CONCLUSION

HUD supports the progress being made by tribes in providing the housing needed in their communities and throughout Indian Country. This concludes my prepared remarks. I would be happy to answer any questions you may have.

TESTIMONY OF MARK MARYBOY, CHAIRPERSON
NAVAJO NATION COUNCIL
TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE

Introduction

Chairman Ney, Ranking Member Waters, Congress Renzi and other distinguished Members of the Committee, on behalf of the Navajo Nation, thank you for this opportunity to address you today. On behalf of the Navajo Council Transportation and Community Development Committee (TCDC), I would like to begin by extending our sincere appreciation for your leadership in holding these historic hearings. This is a rare opportunity for you to experience first hand the frontier conditions that Indian people confront everyday.

As Chairman of TCDC, I come before you today to initiate what we hope will become an ongoing discussion between your Committee and Native American communities about how to craft solutions to remedy the housing problems in Indian Country, where families live in some of the most deplorable living conditions in the United States. As the 2000 Census revealed, you can see yourselves, families on the Navajo Nation commonly live in homes with 15 to 20 people under one roof, in a house without drinking water, without a toilet, without showers and sometimes even without a kitchen. The sole access routes leading to these homes are generally dirt roads that are frequently made impassable by mud and sand dunes. These are the same roads that over half of all Navajo families must travel to haul drinking water twice a week just to meet their most basic health and sanitation needs.

Initiatives and Partnerships To Develop More Housing for Indians in Tribal Areas

We know the federal government is trying its best, but as the 1997 GAO report on Indian housing revealed, federal housing programs in Indian Country were essentially building ghettos in tribal communities. The passage of the Native American Housing Assistance and Self Determination Act of 1996 has given tribes new opportunities that have allowed the Navajo Nation to provide low income housing for college students, elderly group homes, traditional hogan style homes for elders and veterans housing. NAHASDA has given us more flexibility through its block grant to leverage other federal funding for both housing and infrastructure development. However, the Federal appropriations for Native American housing are not sufficient, and will never be enough as long as the federal laws do not encourage much greater private sector investment. The lack of significant private investment and the dire conditions many Native American communities face, mean that federal dollars make up a larger portion of the total housing resources than any American communities outside of reservations.

One-Stop Mortgage Initiative and Other Ideas for Private Sector Investment

The One-Stop Mortgage Initiative was successful in implementing the HUD section 184 program. Unfortunately, not enough mortgage transactions are happening to meet the demand for home ownership on the Navajo Nation. There are a number of reasons for this. First, we simply do not have enough banks. The Navajo Nation has only one banking partner on the entire reservation, so there is virtually no competition for private investment. In an area that covers over 18 million acres, the Navajo Nation has only five banking facilities. Second, lenders are unfamiliar with enforcing mortgages or other debt instruments on tribal trust land. It is not that it cannot be done. It is simply that they don't know how to do it. Third, title searches are very difficult on the Navajo Nation because title records are maintained in one BIA office in Albuquerque, which is responsible for the records on every reservation and pueblo within the entire Southwest.

We urge Congress to amend the Community Reinvestment Act to ensure that banks use transactions from surrounding communities to maintain acceptable community investment scores. Some Federal Home Loan Banks have standards that result in significantly more services to Indian country. The Navajo Nation is currently served by three Federal Home Loan Banks, two of which do not maximize the opportunities to serve the Navajo Nation. The Navajo Nation requests that it receive all services from the Federal Home Loan Bank of Seattle, which has proven most helpful to the provision of home loan banking services to the Navajo people.

And finally, there is the question of legal jurisdiction. The mortgage companies who are willing to lend in reservation communities typically want to use state law to resolve any disputes. The tribes of course want to use tribal law. Congress can help tribes and states avoid thorny federalism issues by making private lenders' receipt of federal guarantees contingent upon such lenders availing themselves of tribal courts when they make mortgage loans on an Indian reservation.

Land Status

The trust status of Indian land does affect the private sector's ability to finance housing for Indians. However, a few tools to overcome this challenge do exist. For example, the Navajo Nation Trust Land Leasing Act authorized the Navajo Nation to issue non-mineral leases within the reservation without Secretarial approval. These leasehold interests have value and provide an equity interest that individual can mortgage against. However, it is unclear whether under the 184 loan program such a mortgage is permissible. Consequently, the Navajo Nation is currently restricting its own leasing authority to business site leases, rather than extending its broad powers to include housing site leases.

The federal land status of the Navajo Nation is a hindrance to housing development and homeownership. However, it is an underlying problem that the Navajo people, like all Indians, are afraid to talk about because recent federal case law threatens tribal jurisdiction and sovereignty wherever the land's trust status is altered in any way, including the grant of rights of way. Congress could be instrumental in forging a dialogue on this important subject by commissioning a blue ribbon panel composed of tribal law experts to review federal case law to identify how trust land status impacts economic development, including housing markets and home ownership, in Indian Country. Congress must then be willing to listen to tribal recommendations.

Conclusion

There is a social awakening among young, educated Navajos who want to return to the Navajo Nation. These young Navajos ask, "Why can't we have the same opportunities on the Navajo Nation that exist on the outside?" We need our young Navajo people, which is one reason the Navajo Nation invests so much in them through scholarships. But we can't keep them here once they are educated because they find it next to impossible to do here what they can easily do anywhere else in America -- buy a house and build a nest egg.

There are social problems that have plagued our people for generations. In 1966 the Department of Interior imposed a construction ban on development in the Navajo/Hopi disputed land area that came to be known as the Bennett Freeze. Since that time, no construction or repairs have been allowed without the permission of both tribes and the Department of Interior. You can't pave a road there, or mend a fence, let alone build a house.

New Lands is where Navajo relocatees were sent. Navajos who were too young to be considered heads of households then to get a home are now parents who are landless and homeless. What can HUD or USDA or BIA be expected to do unless Congress addresses the jurisdictional confusion over land status in a manner which retains Navajo jurisdiction over trust and other lands within the Navajo Nation and encourages private sector lenders to enter into mortgages on Navajo lands?

Tinkering with federal initiatives today will not provide home ownership opportunities for Indians unless Congress makes a real commitment to curing the underlying condition that prevents homeownership within reservations, rather than treating its symptoms. As an elected tribal leader, as a tribal member -- but most importantly -- as a father, I ask you to make it possible for my daughter, and all Indian children, to realize their dreams to own homes on the reservations they love. Thank you.

Testimony of Lawrence Parks
Senior Vice President
Federal Home Loan Bank of San Francisco
on
Improving Housing Opportunities for Native Americans
before the
Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

Tuba City, AZ

May 3, 2004

Good afternoon. My name is Larry Parks, and I am the Senior Vice President for External and Legislative Affairs of the Federal Home Loan Bank of San Francisco. I am here today on behalf of the San Francisco Bank to discuss the Bank's role in supporting housing opportunities for Native Americans, especially through the Bank's Affordable Housing Program. The board and management of the Bank strongly believe the Affordable Housing Program is an important tool that, combined with the expertise and resources of its member institutions, provides expanded housing opportunities in a cost efficient manner.

Before focusing more specifically on the subject at hand, let me describe very briefly the structure of the Federal Home Loan Bank System. In 1932, Congress established the Federal Home Loan Bank System of 12 cooperatively-owned regional Federal Home Loan Banks to support largely federally insured housing lenders. The Federal Home Loan Banks take their housing finance mission seriously. Since the inception of the System, the Federal Home Loan Banks have developed a high level of expertise in providing housing finance to their 8,000 member-owner institutions, and have created a very effective and efficient delivery system. The Federal Home Loan Banks do so by providing liquidity for home mortgage loans that may otherwise be illiquid because such loans may not meet the underwriting criteria of the secondary market.

In brief, the Federal Home Loan Banks make advances (loans) to member institutions collateralized by home mortgages. The members in our Bank's district, encompassing California, Nevada, and Arizona, are banks, savings institutions, and credit unions that range in size from some of the nation's largest housing lenders to single office institutions. Our diverse membership base has a common interest: using the Bank as a source of liquidity and providing funding for housing loans. Access to the Bank's advances enhances lenders' ability to hold loans that they cannot sell easily in the secondary market and still meet either the seasonal or cyclical demands of the borrowing public. In effect, access to Bank advances takes the liquidity risk out of lending to families with the fewest financial options.

The core business of the Federal Home Loan Banks, providing advances to member institutions collateralized by home mortgage loans, amounted to over $500 billion as of December 31, 2003. Of that, the San Francisco Bank's advances amounted to about $112 billion.

The Federal Home Loan Bank San Francisco has 38 members with 184 branches operating in the State of Arizona. Those members provide housing credit across all segments of Arizona's population as a result of their outstanding advances from the San Francisco Bank of over $63 billion dollars.

A central part of the cooperative Federal Home Loan Bank System is the Affordable Housing Program, through which the Federal Home Loan Banks provide subsidies on loans or cash grants to build or rehabilitate lower income housing through members institutions. The total grants and subsidies equal 10% of each Federal Home Loan Bank's annual income, thereby creating a pool of lower-cost funds to finance the purchase, construction or rehabilitation of low and moderate income owner-occupied or rental housing. Since the program's inception in 1990, the Federal Home Loan Banks have awarded nearly $2 billion in AHP subsidies, helping to create more than 400,000 housing units for low-income families. In 2003, the Federal Home Loan Banks contributed $200 million to this program. The AHP program is the largest corporate contributor to Habitat for Humanity International -- one in four Habitat homes in the U.S. has received AHP funds -- and is the largest private source of grant funds for affordable housing development in the country.

The eligibility requirements for AHP grants help to make certain that they provide needed funding in a competitive manner. AHP grants can be used to fund housing for families or individuals with incomes at or below 80 percent of the median income in the relevant geographic area. In addition, 20 percent of AHP funded rental housing must serve households with incomes at or below 50 percent of the area median. And AHP awarded funding is provided only through member institutions that work in partnership with a community sponsor organizations. This last standard helps to ensure that the private part of the public-private AHP partnership includes people who know best the needs of those that the AHP program is designed to serve.

Since 1990, the San Francisco Bank has provided $312 million in AHP assistance to 2400 projects which provide rental and homeownership opportunities for nearly 60,000 households. Through the AHP a cross-section of lenders, developers, community-based organizations and local housing agencies work to create affordable housing. In 2003, the San Francisco Bank provided $36 million in AHP funds through its members. These funds were awarded to 103 projects submitted by member institutions as part of a competitive process conducted by the Bank. Member banks teamed up with non-profit and for profit developers, developed project plans and submitted them to the San Francisco Bank's competitive AHP process, which scores and ranks projects based on factors that include the amount of dollars leveraged by the AHP subsidy, ancillary on-site services made available to residents such as daycare, counseling, job training and computer learning centers and the need for the subsidy to complete the project. These winning projects will help generate 6,600 affordable housing units, including 1100 homeownership opportunities.

In Arizona, the winning 2003 projects, located in Pima, Yuma, Santa Cruz, Cochise and Maricopa Counties, received over $5 million in San Francisco Bank subsidies. The member institutions that submitted the proposals, Bank of America, Canyon Community Bank, Johnson Bank Arizona and BankUSA, represent the breadth of membership in the San Francisco Bank. The projects themselves ranged from 20 rental units in Phoenix for transitional housing for very low-income Native Americans and people with special needs (Whispering Pines Apartments) to

61 new single-family homes for low- to moderate-income first-time homebuyers in Nogales (Pena Blanca Village). In addition to housing, Whispering Pines will include a community kitchen and services for the residents, such as employment training and counseling, health and youth programs and child daycare. The Pena Blanca Village homeownership project will include pre- and post-purchase homeownership counseling, a community facility and child day care. The primary source of activity by the San Francisco Bank in Native American communities is through the Affordable Housing Program. Since the Program's inception, seven projects on Native American lands have been approved for grants by the San Francisco Bank. These projects provide 282 units of affordable rental housing and 18 units of affordable ownership housing, resulting in attractive, sound shelter for 300 families.

The funding by the San Francisco Bank of AHP projects on Native American lands has not been without difficulty, primarily because of the unique legal status of Tribes and their lands. The sovereignty of Native American lands and their trust status create legal problems for traditional methods of housing finance. That is, traditionally lenders place a lien and have the ability to take possession of or sell the property to satisfy the lien. Generally, this tool is not available on tribal lands. The San Francisco Bank is committed to working with the Native American community to find solutions to issues that plague lending on tribal lands. Differences in tribal laws and sovereignty constraints make an across the board prescriptive solution for Tribal Native American lending nearly impossible.

Balancing Native American sovereignty issues and the lien and foreclosure questions that the San Francisco Bank and it members often face as a challenge to providing mortgage credit on tribal lands. For instance, in 1999 and 2000, the San Francisco Bank approved direct AHP subsidies for three rental housing projects on tribal trust lands leased to the project owner by the tribe. At that time, the Federal Housing Finance Board's AHP regulations seemed to require that a lien be taken to secure any AHP repayment obligation that might arise in the event of noncompliance with AHP requirements, including the sale or refinancing of the project. In order to fund these projects and not violate federal regulations governing the Home Loan Banks, the San Francisco Bank sought a regulatory interpretation from our regulator -- the Federal Housing Finance Board that would clarify that mechanisms other than a lien on the property could be used to secure the AHP repayment obligation. After negotiating with the regulator for over three years, in 2003, the San Francisco Bank received a favorable answer. These projects are now finally underway.

The San Francisco Bank continues to work with trade groups and other collaborative to find creative approaches to address lenders needs and the rights of tribe on their lands. For instance the bank works with the National American Indian Housing Council (NAIHC) and participated in the development of the One-Stop mortgage process used to streamline mortgage lending on Native American lands. The San Francisco Bank would be happy to participate in other efforts to address this issue ways to balance the demands of Native American sovereignty while expediting the recordation of the leases or title and the ability to execute foreclosure or its equivalent when needed.

I appreciate the opportunity to participate in this hearing on behalf of the San Francisco Bank.

Thank You.

Subcommittee on Housing and Community Opportunity

Hearing – May 3, 2004

"Improving Housing Opportunities for Native Americans"

Testimony

"The Impact of Insurance on Indian Housing Mortgages"

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Thank you for the opportunity to share my concerns regarding the significant impediments to improving housing opportunities for Native Americans. My name is Kent Paul and I am the Chief Executive Officer of AMERIND Risk Management Corporation - a federal corporation owned and operated by a consortium of Indian Tribes and Indian Housing Authorities, which pool their financial resources to provide self-insurance coverage to protect Indian housing, infrastructure and individuals and families in Indian Country.

My testimony will address two specific topics. First, the inadequacy of affordable and available insurance coverage for homeowners in Indian Country and its impact on home mortgages. Second, the important role that AMERIND plays in protecting Indian housing and the impediments restricting AMERIND's ability to provide even more protection.

I will also respond specifically to the four questions posed by the Subcommittee relating to homeownership in Indian Country.

I. Lack of affordable or available insurance coverage

In urban and suburban America, insurance, for the most part, is readily available from over 1,600 insurance companies. The opposite is true in rural America, especially in Indian Country. To date, less than five insurance companies provide products or services that meet the needs of Indian communities, Tribal governments, reservation businesses, and Indian housing. Since September 11, 2001, the affordability and availability of insurance in Indian country has gotten worse. In our society, insurance is the oil that lubricates and protects our economic engine. Without insurance, banks will not loan money, consequently, money for investing in new economic enterprises would stay in the bank rather than becoming risk capital; businesses owners would be hesitant to conduct business; and autos would remain parked in the garage

Why does the private insurance sector turn its back on Indian Country? Several of the reasons would be:

1. Perceived lack of profit potential due to remoteness of Indian communities, lack of water and inadequate fire protection.

2. Insufficient number of insurance agents servicing Indian country.

3. Misunderstanding and fear of Tribal sovereignty and Tribal courts.

4. Lack of tribal commercial laws or business codes among the 550+ federally recognized Indian tribes.

5. Overall perception of Native Americans as poor, unemployed, uneducated, unhealthly, and addicted to alcohol and drugs.

In any given month, various federal agencies, lending institutions or Indian organizations will provide a seminar or technical assistance programs on the topic of homeownership, mortgage lending, HUD 184, or Title VI programs or tax credit projects. Few, if any of these seminars or programs discuss the role of insurance and financial protection in homeownership. Yet, without such coverage, lending will never be provided. In my opinion, this has been one of the major stumbling blocks to homeownership in Indian Country.

In response to the Subcommittee's 4 specific questions, I offer the following testimony:

1. What initiatives or partnerships have you taken part in or have knowledge of that are designed to contribute to the development of more housing for Native Americans and for tribal areas?

   Answer: AMERIND has been very active as a sponsor or participant in a majority of the HUD Summits on Homeownership and homebuyer education. AMERIND also participates in programs underwritten by Fannie Mae and is active in programs promoted by USDA-Rural Development. AMERIND also assists the National American Indian Housing Council in homeownership technical assistance seminars, and conducts two national seminars that focus on financial protection and homeownership issues. AMERIND is very active in the process but seldom are we asked to focus on the issue of financial responsibility through the purchase of insurance.

   Although all of these seminars and technical assistance seminars have value, most do not attract the very people that buy the homes. For the most part, attendees of these meetings are tribal leaders, housing professionals and others that administrate the lending process, but that do not actual borrow the money. A great deal of effort and money is being spent in the area of homebuyer education, but little effort is being made to actually assist the homebuyer through the maze of forms, credit reports, fees and procedures of securing a loan. It is for this reason that I believe predatory lending continues to be a problem in Indian Country. It is not enough to provide knowledge at a seminar and then expect a Native American consumer to be wise to the ways of business within the lending industry. More must be done to assist the consumer through the actual process, not just tell them how to do it.

2. Is AMERIND aware of the One-Stop Mortgage initiative and has it been effective?

   Answer: AMERIND is very aware of the One-Stop Mortgage initiative and we have tried diligently to participate in discussions on this initiative without success. We support uniformity between departments of the governments as it leads to reduced costs and improved service. To my knowledge, there has been limited involvement of the private sector in the One-Stop Mortgage initiative and it is the private sector that will ultimately decide to loan or conduct business in Indian Country. I believe the initiative has minimized the confusion of homeownership in Indian Country, but it has not increased the actual number of loans.

   Three areas of concern that are not being specifically addressed to date in the One-Stop Mortgage initiative are: 1) the computer restrictions placed on the BIA as a result of the *Cobell v. Norton* trust case make it extremely difficult to validate clear title to Indian land held in trust in a timely manner. 2) the cost of title insurance (if available) is often prohibitive in Indian country because of the inability of the title company to assure the accuracy of the title through the BIA. In my opinion, the trust responsibility of the federal government is the guaranty of clear title and the cost for title insurance should be much less expensive in Indian Country than in the rest of country. 3) the failure of the

BIA, HUD, USDA, VA, or Freddie Mac to recognize AMERIND as a provider of hazard protection for home mortgages in Indian Country. Recently, Fannie Mae granted AMERIND a national letter of approval as a recognized insurance provider for Indian Country and will purchase any mortgages protected by our Indian housing self-insurance risk pool. This national recognition must be part of the One-Stop Mortgage initiative if there is to be improved success. In most Indian communities there are no other options than the products and services provided by AMERIND. Despite repeated requests, little action has been taken to develop a "Memo of Understanding" (MOU) between the other federal agencies to recognize Fannie Mae's approval of AMERIND as an approved provider of hazard protection for home mortgages in Indian Country. Without an MOU. Indian country will continue to be neglected.

3. Trust land status and impediments to homeownership. How does this affect the private sector's ability to provide housing assistance?

   Answer: Trust status of Indian land has been and will continue to be an impediment to the private sector unless the following occurs:

   a. The BIA should encourage Tribes to adopt a uniform commercial code specific to Indian Country that levels the playing field for all parties to a real estate financing transaction. Banks and lending institutions find it much to cumbersome to work the differing laws of over 500. A uniform set of rules would make it more desirous for lending institutions to lend in Indian Country.

   b. Provide more autonomy to Tribes in making decisions relating to lands held in Trust without bureaucratic oversight. Tribal leaders and administrators are far more educated today that when paternalistic policies were invoked in the 1800's. Tribes are desirous to be self-determinant and self-governing; consequently they should have a greater control over the lands within their communities.

   c. Tribal sovereignty needs to be clarified so that the Tribes can work unencumbered within their territories. There is a unique relationship between Tribes, the federal government and State governments. This relationship is both a boon and a curse for Tribes. Tribal sovereignty was exercised to its fullest extent for generations before European colonists arrived. By treaty, Tribes were permitted to exercise limited sovereignty by the federal government in exchange for their lands and resources, and relocation. The limit and scope of Tribal sovereignty continues to be debated and adjudicated by our federal court systems. The private sector must be educated on Tribal sovereignty and the rules of business engagement in Indian Country. Always requiring a waiver of sovereignty as a condition to do business in Indian Country (lending for housing located on trust land) will be an ineffective method for increasing homeownership.

4. Limited number of conventional mortgages made from 1992 to 1996. What changes are necessary to encourage investment in Indian Country?

   Answer: My comments in the preceding three questions address many of the issues that prevent the private sector from lending to Native Americans. As a recap, specific changes to encourage private lending are:

a. Streamline the lending process. Banks unfairly perceive too much difficulty in lending to Native Americans than to non-Natives.

b. Establish a uniform set of rules or procedures.

c. Find ways to minimize the Tribes need to waive sovereignty.

d. Allow Tribes to validate clear title to trust land within their communities with the BIA providing a supporting role rather than a primary role.

The second topic of my testimony is the important role AMERIND has played to encourage homeownership and protect Indian communities.

As I mentioned earlier, AMERIND is a federal corporation owned and operated by consortium of Indian Tribes and Indian Housing Authorities that are dedicated to protecting themselves and their Tribal families.

AMERIND is owned by 217 IHAs, which represent over 500 federally-recognized Indian tribes located within 32 states. AMERIND operates on a purely non-profit basis.

Since its formation, AMERIND has:

- Paid over $125 million in Indian housing related liability and property claims.
- Saved Indian tribes, IHAs, and HUD over $100 million in premiums.
- Protected over $6.5 billion of federally-subsidized Indian housing.
- Provided better terms, conditions, and coverage at nearly one-third the cost of comparable commercial insurance.
- Remained financially stable during difficult market conditions.
- Provided self-insurance coverage for Indian tribes and IHAs located in rural Indian communities where commercial insurance companies have refused to provide coverage.
- Created employment in Indian country.

AMERIND, therefore, is an example of the kind of tribal self-determination that Congress intended to foster when it enacted NAHASDA. *See* 25 U.S.C. § 4131(a)(2).

AMERIND Historical Perspective

NON-PROFIT SELF-FUNDED INDIAN HOUSING RISK POOLS

I. ***Legislative and Administrative History of Indian Housing Pools***

Congress' treatment of the United States Housing Act of 1937 ("1937 Act") and the regulations issued under that Act demonstrated Congress' continuing commitment to promote the ability of Tribes and their Tribally Designated Housing Entities ("TDHEs") or Indian Housing Authorities ("IHAs") to provide alternative low-cost self-insurance coverage for federally-subsidized Indian housing through their wholly owned and controlled non-profit self-funded risk pools. The corresponding administrative history further shows that the Department of Housing and Urban Development ("HUD") fostered this congressional commitment by actively encouraging the formation of, and in fact financing a non-profit self-funded Indian housing risk pool to provide protection for federally-subsidized Indian housing. Congress has since recognized that in order to support the activities of non-profit self-funded Indian housing risk pools, it must protect those pools from burdensome state and federal requirements that might impair their ability to continue to provide low-cost self-insurance coverage.

The Native American Housing Assistance and Self-Determination Act of 1996 ("NAHASDA"), enacted against the backdrop of this congressional and administrative history, specifically requires the Secretary of HUD to issue regulations for the provision of adequate insurance coverage for federally-subsidized Indian housing. NAHASDA, therefore, provides a legal basis for HUD to issue a regulation preempting burdensome and counterproductive state and tribal regulations in furtherance of Congress' longstanding policy of protecting the ability of non-profit self-funded Indian housing risk pools to provide low-cost self-insurance coverage to IHAs for federally-subsidized Indian housing.

A. **United States Housing Act of 1937**

The 1937 Act authorized the Secretary of HUD to make annual contributions to IHAs for low-income Indian housing projects. 42 U.S.C. § 1437c. The 1937 Act further empowered the Secretary to set the terms of these annual contributions in contracts, known as Annual Contribution Contracts ("ACCs"), between HUD and IHAs. *Id.* at § 1437d.

Section 305 of the standard ACC required IHAs to obtain liability and property insurance for federally-subsidized Indian housing projects from a "financially sound and responsible *insurance company*" on a competitive bidding basis. Notwithstanding this contractual provision, HUD provided insurance directly to IHAs through a master policy issued by a commercial insurance company. HUD then billed IHAs for the insurance on a *pro rata* basis, which IHAs paid using the annual contributions from HUD.

But in 1986, the proposal of the only insurance company willing to provide coverage for Indian housing under a master policy was rejected because the company was willing to provide *only* property coverage, and would provide that limited coverage upon payment of exorbitant premiums. Seeking an alternative to these excessive premiums, HUD encouraged the National American Indian Housing Council ("NAIHC"), the advocacy group for IHAs, to form a non-profit self-funded Indian housing risk pool. HUD advanced subsidy funds to 175 IHAs for this purpose.

NAIHC responded by incorporating a non-profit self-funded Indian housing risk pool known as AMERIND Risk Management Corporation ("AMERIND") under the laws of the Red Lake Band of Chippewa Indians in Minnesota.

On May 17, 1988, HUD approved AMERIND as "substantially equivalent" to a "financially sound and responsible insurance company." In doing so, HUD waived for the pool the insurance-company and the competitive-bidding requirements set forth in Section 305 of the standard ACC. The IHAs have owned and operated AMERIND under this arrangement since then and in doing so, have protected over $6.9 billion in f Indian housing property at nearly one-third the cost of comparable commercial insurance.

B. **1989 Proposed HUD Rule**

In the early to mid-1980's, many insurance companies became insolvent, thereby "depriving the [Public Housing Authorities] of payments to cover their losses and the return of unearned premiums." 54 Fed. Reg. 52000, 52004 (Dec. 19, 1989). In response, HUD proposed a rule that would clarify its policy on "what constitutes adequate insurance coverage under the ACC." *Id.*, 52000. That proposed rule set forth standards for a "financially sound and responsible insurance company" or a substantial equivalent, such as a non-profit self-funded Indian housing risk pool like AMERIND. *Id.* at 52006-7. For whatever reason, the proposed rule was never finalized.

C. **1991 HUD Appropriations Act**

In the early 1990's, HUD proposed a regulation to revoke the competitive-bidding waiver for risk pools. In response, Public Housing Authorities ("PHAs") and IHAs asked Congress to prohibit HUD from revoking the waiver. Congress did so in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill of 1991 ("1991 HUD Appropriations Act"). In doing so, Congress sought to protect the ability of IHA and PHA risk pools to continue to provide low-cost self-insurance coverage for federally-subsidized public and Indian housing from counterproductive state and federal requirements.

The Senate Committee on Appropriations stated that while it supported HUD's effort to impose "reasonable limitations and standards" for pools, it also supported PHAs' efforts "to establish captive entities when due to market conditions such commercially available coverage was either unavailable or exorbitantly expensive." Sen. Rep. No. 101-474, 73-4 (Sept. 26, 1990). Ultimately, the Committee felt that HUD's revocation of the waiver could "unwittingly jeopardize continued availability of insurance coverage from alternative sources, such as captives, and over the longer term may lead to higher costs." *Id.*

The Conference Committee also agreed that HUD should not revoke the waiver, recognizing that the pools had been successfully providing low cost insurance for IHAs and PHAs for many years:

> In the mid-1980's, many public housing authorities were unable to obtain liability or property insurance or were required to pay very large premiums to obtain minimal coverage. In response to that crisis, a number of public housing authorities banded together and formed nonprofit insurance pools and risk retention groups under State intragovernmental cooperation laws or the Federal Risk Retention Act of 1986. *All of these groups were formed at the encouragement, and in many instances, with the assistance of the Department of Housing and Urban Development.* When HUD approved the formation and operating plans of these groups, it granted a waiver from the requirement that insurance be procured only by competitive bidding to public housing authorities that joined such groups. *These groups have been extremely successful in providing low cost insurances* [sic] *to public and Indian housing authorities.* The Department has proposed regulation that would revoke the waiver. The committee on conference agrees that the waiver should be continued and has included language to permit that. Housing Authorities will still be able to make the decision from which company they wish to obtain insurance coverage.

H.R. Conf. Rep. No. 101-900, 28 (Oct. 18, 1990) (emphasis added).

The 1991 HUD Appropriations Act prohibited federal agencies and states from requiring IHAs or PHAs to seek competitive bids for insurance for federally-subsidized housing "when such public housing agency or Indian housing authority purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary." The 1991 HUD Appropriations Act also required the Secretary to establish standards to ensure the solvency of these nonprofit insurance entities, but Secretary never did so.

D. **1992 HUD Appropriations Act**

Thereafter, a dispute arose as to whether the 1991 Appropriations Act made the competitive-bidding waiver permanent. To settle that dispute, Congress enacted the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill of 1992 ("1992 Appropriations Act").

In the 1992 Appropriations Act, the Senate Appropriations Committee restated its belief "that these nonprofit, PHA and IHA-controlled insurance entities are providing an effective and cost-saving alternative to conventional insurance carriers." Sen. Rep. No. 102-107, 77 (July 11, 1991).

The 1992 Appropriations Act, which is now codified at 42 U.S.C. § 1436c, permits an IHA or a PHA to obtain coverage from a "nonprofit insurance entity" owned and controlled by IHAs or PHAs without regard to any state or federal competitive-bidding requirement. Section 1436c further directs the Secretary to issue regulations providing standards for the solvency of these nonprofit insurance entities.

Accordingly, HUD issued comprehensive regulatory standards for the approval and oversight of IHA and PHA pools, similar to those first set forth in the 1989 Proposed HUD

Regulation. *See* 24 C.F.R. § 950.190 (1995) (IHA risk pools); 24 C.F.R. § 965.205 (2002) (PHA risk pools). IHAs operated their risk pool in accordance with 24 C.F.R. § 950.190 until 1997.

The 1991 and 1992 HUD Appropriations Acts make evident Congress' commitment to support non-profit self-funded Indian housing risk pools and to protect them from counterproductive and burdensome state and federal requirements that might impair their ability to provide low-cost self-insurance coverage for federally-subsidized housing.

E. **Native American Housing Assistance and Self-Determination Act of 1996**

In 1996, Congress passed NAHASDA, which (i) carved out for special treatment Indian housing that had previously been governed exclusively by the 1937 Act, and (ii) created a new statutory regime specifically for the regulation of Indian housing. Two of NAHASDA's primary national objectives are "to assist and promote affordable housing activities," including the financing of affordable low-income Indian housing, and "to promote self-sufficiency of Indian tribes and their members." 25 U.S.C. § 4131(a)(1), (2).

Unlike the 1937 Act, NAHASDA specifically requires IHAs to carry insurance for federally-subsidized Indian housing, and specifically requires the Secretary to establish requirements for that insurance. For example, NAHASDA requires IHAs to certify that they:

> will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this chapter, *in compliance with such requirements as may be established by the Secretary.*

25 U.S.C. § 4112(c)(5)(B) (emphasis added).

In addition, NAHASDA requires, as a program requirement, that IHAs "maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this chapter." *Id.* at § 4133(c). NAHASDA further requires the Secretary to issue final regulations (on a negotiated rulemaking basis) "necessary to carry out this chapter." *Id.* at § 4116(b).

In 1997, HUD issued new regulations implementing NAHASDA, such as 24 C.F.R. § 1000.138. That section gives IHAs the option of providing coverage for Indian housing either through (i) "a plan of self-insurance" or (ii) an insurance policy purchased from an insurance company. HUD also repealed all former Indian housing regulations, including 24 C.F.R. § 950.190 (which implemented 42 U.S.C. § 1436c).

Unfortunately, HUD did not provide any regulatory guidance or standards for "a plan of self-insurance" of which non-profit self-funded Indian housing risk pools are a well-recognized form.

Impediments to Expanding AMERIND Products and Services

In Indian country, insurance coverage is often unavailable because the commercial insurance industry (for various unstated reasons) has generally chosen not to do business there. IHAs recently demonstrated to HUD Assistant Secretary Michael Liu that, but for AMERIND, insurance for federally-subsidized Indian housing in Indian country would be either unavailable or exorbitantly expensive. This finding corresponds to the reasons why Congress, in the 1991 and 1992 HUD Appropriations Act, chose to support Indian housing risk pools and to remove counterproductive regulatory barriers to their ability to provide low-cost self-insurance coverage for federally-subsidized Indian housing.

1. Lack of Housing Risk Pool Regulations

AMERIND is the only Indian Housing Risk Pool in existence and has the distinct status of operating as a federal corporation under Section 17 of the Indian Reorganization Act. All other housing risk pools are creatures of State law and oversight. As indicated in the previous historical remarks, Congress intended the creation of housing risk pools as an alternative insurance mechanism and instructed the HUD Secretary to issue regulations regarding the same. To date, no such regulations exist

AMERIND has been working with the HUD Assistant Secretary and staff to re-institute rules that were in place under the 1937 Housing Act. AMERIND consistently complied with those rules and regulations until they were withdrawn in 1997 with the passage of NAHASDA. Since 1997 there have been no specific rules that address the requirements of an "approved" plan of self-insurance for an Indian Housing Risk Pool, which places AMERIND in a difficult position. Having no standards by which to be judged causes Banks, lending institutions and others to question our viability as a provider of property protection even with HUD's recognition and approval of AMERIND as a provider of self-insurance for Indian housing.

2. Federal Pre-emption of State Insurance Law

Currently, the greatest threat to the continued existence of non-profit self-funded Indian housing risk pools, such as AMERIND, is not state or federal competitive-bidding requirements, but is unbridled state and tribal insurance regulation.

AMERIND currently serves IHAs located on over 500 Indian reservations and in "Indian areas" located in 32 States. If these states and Indian tribes are permitted to impose their conflicting regulatory schemes and taxes on non-profit self-funded Indian housing risk pools, the ability of those pools to carry out their congressional mandate to provide low-cost coverage for federally-subsidized Indian housing will be seriously impaired, if not destroyed. To be sure, IHAs would be forced to divert scarce federal grant funds for Indian housing to pay for the increased state and tribal regulatory costs, thereby frustrating Congress' intent to provide affordable low-income housing for Indian people.

AMERIND and NAIHC have therefore requested that HUD implement a new regulation establishing uniform federal standards for plans of self-insurance, such as non-profit self-funded Indian housing risk pools, and expressly preempting the authority of States and Indian tribes to enact or enforce any requirements that would conflict with those standards.

AMERIND has taken the position that through NAHASDA, Congress has delegated to HUD ample authority to preempt conflicting state and tribal risk pool or insurance laws. In addition, AMERIND asserts that Congress has preempted the entire field of Indian housing—a field within which self-insurance coverage provided by non-profit self-funded Indian housing risk pools plays a critical role. Thus, the position of AMERIND is that HUD has been granted the power, either through congressional delegation, or through the federal government's occupation of the field of Indian housing, to preempt state and tribal regulation of non-profit self-funded Indian housing risk pools to further Congress' longstanding goal of ensuring the availability of low-cost housing for Indian people.

Unfortunately, Indian Country is not created equal. A majority of Tribes have defined reservations and it is abundantly clear where State and Tribal authority start and stop. In States like Alaska and Oklahoma, there are no formal land based reservations (the Metlakatla Indian Community in Alaska excepted). These two States have recognized "people" reservations and it is difficult to define State and Tribal jurisdiction. Both Alaska and Oklahoma Tribes play a significant role in AMERIND and it is unclear under present law whether these Tribes have the authority to participate in a federally approved plan of self-insurance. The establishment of clear regulations with specific language that pre-empts state interference in the administration and operation of an Indian Housing Risk Pool would greatly enhance AMERIND's ability to serve the Tribes and their members in those two respective States. As of this date, AMERIND provides no products or services to individual Alaska Natives striving for homeownership.

3. **Memo of Understanding**

A great deal of effort has been made to develop coordination between federal departments regarding the One Stop Shop Mortgage initiative. One failure of the initiative has been to recognize approved providers among the various departments. As indicated in earlier testimony, AMERIND is the "market of last resort" in many Indian Communities. Very few, if any, for-profit insurance companies readily offer affordable insurance products in Indian Country. For this reason AMERIND is forced to try and respond to the ever increasing need. We would strongly encourage a Memo of Understanding between the various federal departments, Fannie Mae and Freddie Mac that approve the hazard protection afforded by AMERIND. Once specific regulations are established by HUD and AMERIND is deemed to be an approved plan of self-insurance, this approval should be adequate for USDA-Rural Development, Veteran's Administration and the two largest buyers of mortgages, Fannie Mae and Freddie Mac.

This concludes my testimony regarding improving housing opportunities for Native Americans. Thank you for the opportunity to testify and to inform the committee on the importance of insurance in the lending process as well as the significant role played by AMERIND Risk Management Corporation.

Kent E. Paul, ARM
Chief Executive Officer
AMERIND Risk Management Corporation

TESTIMONY OF CAPT. JUNE SABATINOS
ON BEHALF OF THE
TUBA CITY REGIONAL HEALTH CARE CORPORATION
TO THE U.S. HOUSE OF REPRESENTATIVES SUBCOMMITTEE
ON HOUSING AND COMMUNITY OPPORTUNITY
MAY 3, 2004

Good morning, and welcome to Tuba City. I am Capt. June Sabatinos, vice president of Ambulatory Care Services at the Tuba City Regional Health Care Corporation. I appear before you today on behalf of our organization, which just a year-and-a-half ago was a federal Indian Health Service (IHS) medical center. Many of our staff continue their federal service through memoranda of agreement with the IHS. But our hospital is now a non-profit tribal organization.

Through the federal Indian Self-Determination Act, P.L. 93-638, our eight-member, all-Indian board of directors separated from the federal government for one specific reason: to bring decision-making about health care needs back to the local level where services are provided.

Historically, the federal government has fulfilled its trust responsibility to provide health care to Navajos and Hopis since the 1920s. A little house that still stands on Main Street under the cottonwood trees served as the first, six-bed clinic. The first actual hospital, also on Main Street, was built in the 1950s. Our second and third hospitals, which we still use, were built in the 1960s and 1970s, respectively.

Today, we are an 73-bed, acute care facility with more than 60 physicians on staff and a total of 749 employees. Throughout the years, Tuba City earned a national reputation for exemplary health care within the IHS system. Many on our medical and administrative staff have been with us for 20 years or longer. We serve a patient population of more than 35,000 from 11 Indian communities.

Fortunately, our independent status now allows us the freedom to hire more staff as our needs demand. Just last year, our board of directors hired our Chief Executive Officer, Mr. Kirk Gray, who brings more than 30 years experience in health care administration from around the country. We've also hired our first chief financial officer, a new human Resources Director, a new information technology director, new operating room manager, and many others. In fact, my husband and I recently joined the staff, transferring from Washington, D.C.

The Need for Additional Housing

I'm here today to inform you of one of our most pressing needs. If you traveled here from the airport or a motel in Flagstaff, you probably noted the stark beauty of the changing landscape. Most significantly, you traveled at least 75 miles on one of Arizona's most dangerous highways. Every day, approximately 50-to-60 of our employees make this

same journey twice a day. Each travels 750 miles per week just to come to work. The reason our staff – Indian and non-Indian alike – spend three hours a day driving, carpooling or taking our hospital van is because we do not have the quarters to house them. I appear before you today to ask that you assist us in acquiring additional housing in order for us to meet the health care needs of our Indian patients.

Currently, our organization has 258 housing units which are 30-to-40 years old. As vacancies occur, asbestos abatement has to be done. That makes the housing safer but increases the waiting time for housing applicants. We currently have no vacancies, yet 34 current or potential employees are on the waiting list for housing, and that wait ranges from two-to-six months.

Since September 2003, it has become common practice to house new employees at the local motels until housing is available. Currently, eight employees live in the motel. As a result of this situation, we have lost a large number of necessary potential employees. Our laboratory currently has eight medical technologist vacancies. During the past two months, three potential employees declined employment because of lack of housing. One employee had a family and did not feel that they could live in a motel for several months. The other two also felt that several months in a motel would be more than they could manage and declined the offer of employment.

Currently, there are 16 registered nurse vacancies. Within the next six weeks, five RNs are expected to start employment and will be housed in the local motels until housing is available. During the past two months, five potential registered nurses declined employment because of no available housing. Three of the five potential employees were Operating Room nurses.

With the anticipated expansion of our facility and services, it is projected that we will require an additional 150 two-to-four bedroom housing units at an estimated cost of $6 million to house current and projected staff members.

Our experience has been that when housing is available for our staff, they stay at Tuba City for their entire career. The large number of professionals who have stayed with us for more than 20 years demonstrates their commitment. Our housing shortage severely hinders us in recruitment and retention of staff. Because we are on an Indian reservation, here in Tuba City each governmental institution has its own housing complex for its own employees. Our public school district has its own teacher housing. The Bureau of Indian Affairs has its own employee housing. As a former IHS facility, we have our own housing for hospital employees. Although the Navajo Housing Authority has low-rent housing in Tuba City, our staff does not generally qualify for its use either because of their income levels or not being Navajo.

Because there is simply not much land available locally to develop, there is no opportunity for entrepreneurs to build rental housing to meet community needs. Were all the professionals working in Tuba City for the various agencies able to be housed here, it

would be create a substantial income base for the Navajo Nation and an incentive for business enterprises to locate here.

Currently, the IIHS, BIA and the Navajo Nation are assisting us to obtain title to land for housing construction. We are required to meet the federal standards and complete the federal justification process for our housing construction, even though the money that we will be using for construction will not be federal dollars, but rather our own third-party funds that do not face the same restrictions as Congressionally appropriated funds. We hope to begin construction early this summer, but the land title issues have delayed us for the last few years.

Initiatives or Partnerships

Navajo Housing Authority manages the low rent houses in town, but the majority of our staff do not qualify for these houses.

The TCRHCC recommends that more funding be made available through the Indian Health Service for staff housing at both IHS and Tribally-operated facilities or that a separate program be started specifically for healthcare professionals on Indian reservations, both to allow long term leases of land for rental housing construction and to fund such construction. Without these opportunities, it will be increasingly difficult to fill our professional positions and provide adequate health care for our Indian population.

One-Stop Mortgage Initiative

Although we are aware of these federal housing programs, our medical staff are not eligible for these services because they are non-Indians and above the income requirements. There is still a long waiting list for housing at the local Navajo Housing Authority.

Native American Land Held in Trust.

Long term leasing allows economic activity to occur on Indian lands, even when the land is held in trust by the BIA. For instance, in areas like Palm Springs, California, where half the land (every alternate section of land, *i.e.*, every other square mile) is part of the Agua Caliente Indian Reservation and yet the entire city is developed, including the lands held in trust. Those Indian lands have all been developed through long-term leases. The experience there, and elsewhere in Indian Country, that have experienced development indicate that leases of 35-65 years are adequate to allow and encourage development. However, the specific terms and conditions of those leases are critical to prevent tribes from being left with dilapidated and useless properties at the end of the lease periods.

Perhaps there needs to be increased awareness about the availability of lands for housing projects and economic development on Indian reservations, and perhaps matching federal grants or loan guarantees would make it more attractive for non-Indian entities to develop housing in these areas.

Changes or Initiatives Necessary to Encourage Private Mortgage Market Investment in Native American Areas

As noted above, there needs to be wide-spread effort to increase awareness about the need for and availability of lands for housing projects and economic development on Indian reservations, and the pressing need for such development. Matching federal grants or loan guarantees would make it more attractive for non-Indian entities to develop housing and other economic activities in these areas, especially those that are unfamiliar with working in Indian country.

Lease-hold mortgages have made housing available on Indian Reservations through the federal Indian housing legislation and Indian Housing Authorities over the last twenty to thirty years. The problem has been that the funding available for these purposes has not been sufficient to even begin to meet the full housing needs of the Indian communities.

Experience in other reservation areas has shown that non-Indians are willing to invest in projects to be constructed on Reservation lands once they know that long-term leases are available to secure their mortgages, and that such investments are transferable to other subsequent investors.

Thank you, Mr. Chairman and Members of the Subcommittee for offering us the opportunity to testify today. We hope we have provided the Committee with the essence of our housing dilemma for health care staff.

Testimony of
Joe Shirley, Jr.
President of the Navajo Nation

Before the
HOUSE FINANCIAL SERVICES, HOUSING AND
COMMUNITY OPPORTUNITY SUBCOMMITTEE

May 03, 2004

Subcommittee on Housing and Community Opportunity
Committee on Financial Services
U.S. House of Representatives

Hearing on Improving Housing Opportunities for Native Americans
(May 3, 2004 -- Tuba City, Arizona)

TESTIMONY OF JOE SHIRLEY, JR.
PRESIDENT
THE NAVAJO NATION

I am Joe Shirley, Jr., and I am the elected President of the Navajo Nation, the country's largest Indian tribe. It is with great pride that the Navajo Nation government, the Navajo Housing Authority and the Navajo people sincerely welcome you, Mr. Chairman, and the Members of the Subcommittee to Tuba City on the Navajo reservation. And, I want to acknowledge and express our appreciation to our Congressman here in the 1st District of Arizona, Representative Rick Renzi, for his hard work and attention to the needs of the Navajo Nation.

It is especially fitting that the Subcommittee has traveled here to our home to learn more about the many thousands of Navajo, other American Indians and Alaska Natives who have either no homes of their own or homes that by any measure compare only to those in impoverished Third World countries. Mr. Chairman, we are well aware of your leadership in facilitating adequate housing for all Americans, and we ask that you and your colleagues leave today with a renewed commitment to addressing and resolving the critical housing needs of American Indians and Alaska Natives across America.

With me today, and available as may be necessary to respond to the Subcommittee's questions, is Chester Carl. Mr. Carl is the Chief Executive Officer of the Navajo Housing Authority, the largest tribally designated housing entity in the United States.

INTRODUCTION

Spanning over 18 million acres in Arizona, New Mexico and Utah, the Navajo Nation is larger than Connecticut, Delaware, Maryland, Massachusetts and Rhode Island combined. In contrast to those northeastern States, however, the Navajo Nation has an average unemployment rate ranging from 38% to 56%, depending on the season. More than 56% of the Navajo people live below the poverty level, and median per capita income in the Navajo Nation is $7,269. Approximately 78% of public roads on the Navajo Nation are gravel or dirt, and many are impassible when the weather is bad.

While the Navajo Nation government and the Navajo people are hard working and committed to the pursuit of economic self-sufficiency, our efforts are repeatedly undercut by various obstacles, of which the most significant are the massive infrastructure deficiencies that exist here in Indian country. The historic lack of infrastructure prevents us from competing on a level playing field with America's most economically depressed non-Indian areas for investment capital and jobs.

BACKGROUND -- NAVAJO HOUSING NEEDS

Established in 1963 as a public body of the Navajo Nation, the Navajo Housing Authority (NHA) is today responsible for over 8,130 housing units under NHA management. These housing units consist of public rental, mutual help, and units under the Native American Housing Assistance and Self-Determination Act (NAHASDA). A Board of Commissioners governs NHA, overseeing a professional management staff responsible for operating in a businesslike manner in compliance with applicable Navajo Nation and Federal laws and regulations.

Despite NHA's evident successes, its devoted officials and staff labor each day with the knowledge that their efforts hardly scratch the surface of the housing needs of Navajos. Almost 32% of Navajo homes lack plumbing, 28% lack kitchen facilities and 60% lack telephone service -- all "luxuries" that are taken for granted in most other communities in America.

The Navajo Nation presently estimates the need for at least 20,000 additional new housing units for our people, and the actual need may be closer to 30,000 new housing units.

Needless to say, the enormity of our housing needs, together with the needs of other Indian tribes and Alaska Native communities, provide a compelling and uncontroverted argument for Congress to devote extensive new resources to NAHASDA block grants and other Indian housing programs.

OPPOSITION TO RECENT HUD POLICY DECISION

Mr. Chairman, having summarized the overwhelming housing needs of Navajo families and the necessity for increased funding of NAHASDA's Indian Housing Block

Grant (IHBG) program to meet those needs, I must turn to a specific issue that threatens to undermine our ability to provide adequate housing for our people.

The Navajo Nation and the Navajo Housing Authority are deeply concerned that **a recent HUD policy decision will cause an estimated reduction in excess of $5,000,000 annually in IHBG grants to the Navajo Nation and the Navajo Housing Authority** and large reductions in the allocations of many other tribes. This HUD policy decision, made without the required consultation with Indian tribes, subverts the letter, intent and spirit of NAHASDA, and will prevent the Navajo Nation (as well as numerous other tribal governments on Indian reservations throughout the country) from serving the vital housing needs of our people.

This policy decision -- announced by HUD during the pending "negotiated rulemaking" to change the IHBG funding formula, but decided by HUD independently and outside of the rulemaking process -- mandates the use of so-called "multi-race" Census data to determine what constitutes the "Indian" population for the purpose of the NAHASDA IHBG formula. HUD's decision to use multi-race data will severely skew the results of that formula, causing deep reductions in the housing allocations of some tribes while inflating the allocations of other tribes based on individuals who designated multiple races -- including "American Indian and Alaska Native" (AIAN) -- but who would not be considered "Indians" under NAHASDA. Let me briefly explain.

For the first time, the 2000 Census allowed those responding to questions on race and ethnicity to check one or more of the listed race categories. By contrast, the 1990 Census required respondents to check only a single category to indicate their race. If you compare the number of those who identified themselves as AIAN in 1990 to those in 2000 who identified as AIAN alone and as AIAN together with one or more other races, the results readily illustrate how the use of multi-race designations can lead to anomalous and ultimately harmful results.

In 1990, almost 2 million people identified themselves as AIAN only. Yet, in 2000, over 4 million identified themselves either as AIAN alone or as AIAN in combination with one or more other races -- which would amount to an incredible 110% AIAN population growth rate (compared to the U.S. population growth rate of only 13%)! The number of those who identified themselves as AIAN alone in 2000 was 2.5 million -- a figure much more realistic and closer to the population growth rate nationally. Moreover, studies based upon a 2001 Census survey also have shown that a substantial majority of those who checked boxes in the 2000 Census to the effect that they were AIAN **and** also belonged to another race would have selected a non-AIAN designation if they had been asked to list only one race. Yet, despite the fact that the AIAN alone data is much more reflective of the true Indian population under the NAHASDA definition of Indian (which I will discuss in a moment), HUD has now chosen to use the multi-race data in the formula.

HUD's decision will have a devastating impact by reducing funding allocations for Indian housing on many reservations, severely hurting Indian tribes and Indians whose housing needs have not declined. When the multi-race data is plugged into the

IHBG formula, the resulting allocations are shifted in favor of areas with populations that self identify as AIAN in combination with other races (which tend to be more urbanized, non-reservation areas) and to the detriment of those areas with populations that self identify as AIAN alone (which tend to be reservation lands).

HUD's own preliminary estimates reveal that t**he Navajo Nation will suffer the largest single cut in funding -- more than $5 million** -- that will be taken away from Navajo families desperately in need of adequate housing. Other tribes located right here in Arizona also will face severe reductions in their allocations. For example, the Tohono O'Odham tribe will lose $743,937 -- an 11% reduction; the Hopi will lose $613,319 -- a 17% reduction; the Salt River Pima will lose $738,073 -- a 24% reduction; and the Chochiti will lose $111,820 -- a 35% reduction. These are just a few examples of tribes that will lose ground in their efforts to provide adequate housing -- not because of any measurable change in the needs of their people, but instead because of a change by the Census Bureau in the way it counts individuals and HUD's counterproductive insistence on utilizing a multi-race Census count that bears little relation to reality in Indian country. Congress must not allow this untenable and unfair result to stand.

HUD's decision to use multi-race data also runs counter to the letter, intent and spirit of NAHASDA, which clearly defines "Indian" as "any person who is a member of an Indian tribe." HUD's policy violates tribal self-governance rights to determine, via enrollment, for example, those who are members of the tribe -- the very population that NAHASDA was intended to benefit. Congress itself wrote in NAHASDA that "providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status" and that "Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities . . ." (emphasis added).

Moreover, for purposes of determining "the need of the Indian tribes" in the allocation formula, Congress allowed for the use of "[o]ther objectively measurable conditions as the Secretary and the Indian tribes may specify" (emphasis added). We note that earlier versions of the NAHASDA bill did not include the words "and the Indian tribes," so Congress plainly directed that Indian tribes were to be an equal party in the designation of such objectively measurable conditions, and not simply the recipient of HUD dictates that substantially affect tribes' rights.

In short, Mr. Chairman, HUD's decision to dictate to Indian tribes who should be counted as Indians violates NAHASDA (which, after all, is the Native American Housing and Self-Determination Act) and ignores the unique government-to-government relationship between the Federal government and Indian tribes, the Federal government's trust responsibility to Indian tribes and their members, and the rights of Indian people to self-determination and self-governance.

The Navajo Nation and the Navajo Housing Authority respectfully request that the Subcommittee, in the exercise of its oversight responsibilities, act expeditiously to

review -- and correct -- this misguided HUD decision that ignores federal law and will hurt the very people whom HUD is charged by Congress to protect. We strongly believe that tribal enrollment figures provide the best indication of who are Indians under, and entitled to the benefits of, NAHASDA. Alternatively, the Navajo Nation and the Navajo Housing Authority believe that use of the 2000 Census AIAN alone count -- rather than the multi-race count -- not only allows HUD to use updated Census data, but also, as explained previously, more closely reflects the actual count of "Indians" under the NAHASDA definition and funding allocations that are in accord with the Congressional intent and purposes of NAHASDA.

CHEROKEE NATION
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Chad "Corntassel" Smith
Principal Chief

Joe Grayson, Jr.
Deputy Principal Chief

Written Testimony of Chad Smith, Principal Chief, Cherokee Nation
Committee on Financial Services
Subcommittee on for Interior and Related Agencies

My name is Chadwick "Corntassel" Smith and I am the Principal Chief of the Cherokee Nation. Thank you for the opportunity to describe the things happening in the foothills of the Ozark Mountains of Oklahoma.

One of the highlights of being Chief is being able to visit a remote location hidden in the hills. Even before you are able to see what is happening, you hear hammering, sawing, the humming of a generator- all interspersed with the sound of the Cherokee language being spoken: You hear laughter and children playing in the nearby woods. These are the sounds of a house being built in a Cherokee Community **by** a Cherokee Community.

Houses are built with materials purchased by Cherokee Nation using federal housing NAHASDA funds. Community members provide the labor. Construction supervision is provided by the Cherokee Nation through USDA funds, as well as tribal funds.

I know to wear my work clothes when I visit one of these sites because I will be admonished by the Community members to "make myself useful". I will be expected to pick up a hammer or a saw and get to work.

A stable, flexible funding source such as NAHASDA allows Cherokee Nation to determine what works best for our members. It is very important to put our tribal citizens in a situation where they can rebuild their communities, acquire new capacities and expand their capabilities to help themselves.

The leadership of Cherokee Nation can "make ourselves useful" by thinking strategically about how to use our resources in a manner that enhances opportunities for tribal citizens to help themselves. By thinking in a broader context, Cherokee Nation seeks to build people- not just physical structures.

One of our self-help participants is a full blood Cherokee in his mid-40's who has caught chickens for a processing plant all his life. This is back-breaking work that is demanding and often physically-debilitating through the years. This man often puts in an 8 to 10 hour work day catching chickens. He then helps build housing for Cherokee Communities for another 4 to 6 hours that same day. He has just learned how to use a tape measure and now thinks he might want to build houses for a living. He wants to volunteer to assist and to teach other Cherokees

what he has learned. Cherokee Nation would like to see more instances such as this- to make our limited funding go further- to create an epidemic of this type of excitement and activity. Our tribal citizens are creating efficiencies that will stretch our limited funding further, which helps Cherokee Nation to more adequately and efficiently meet our communities' housing needs.

The Cherokee Nation has used NAHASDA in many other strategic ways to promote capacity building and housing opportunities. We fund Individual Development Accounts or IDA's that match the private savings of individuals dollar-for-dollar, or sometimes more, for the purpose of homeownership or business development for residents of federally assisted housing.

We provide "materials only" for low income individuals who need to rehabilitate their privately-owned homes; We have trained and certified staff to eliminate lead-base paint hazards in the housing of low-income Indians; We are utilizing a Rural Housing and Economic Development Grant to establish a structural insulated panel or SIP manufacturing facility; We are exploring the latest methods, technologies, and materials to more efficiently construct decent, safe, durable, safe, and affordable housing; We provide rental assistance to thousands of families, along with case management services when needed; We are exploring the idea of limiting the time residents can receive the rental assistance subsidy, and are planning to provide job training, money management education, and other services to enhance the citizens' ability to become self-sufficient; We are focusing on the youth that currently live in assisted housing and are promoting self-sufficiency for their futures by enhancing their leadership skills and offering entrepreneurship training and financial literacy classes; All of these initiatives will allow Cherokee Nation to house more of the neediest.

Cherokee Nation has leveraged resources, such as The Low Income Housing Tax Credit, to develop several projects. We are the largest user of the loan guarantees under Title VI of NAHASDA, nearing the end of our second year of participation which gave us $50 million, which has been used for the provision of over 400 houses to Indian families. Cherokee Nation is exploring the option to ask for additional loan guarantees, since relatively few tribes have utilized this valuable resource. We plan to aggressively market not only Section 184 loan guarantees, but also USDA's 502 program to our citizens.

Cherokee Nation has built or acquired over 1,000 homeownership units in the last 3 years through NAHASDA block grant funds, Title VI, and other funds. We have attempted to create a balance between creating programs to serve the neediest and facilitating the development of the private housing market for those ready for homeownership. Cherokee Nation has a uniform principle for all of our programs: Build the capacity of our tribal citizens in every way possible.

I hope this gives you some sense of what an Indian Tribe can do through self-determination and self-governance when given an opportunity, such as that afforded under NAHASDA. There are some issues that, if resolved, would better enable Cherokee Nation to strategically address the housing needs of our members. The issues include a.) improving and/or coordinating processes to allocate and utilize Indian Health Service Sanitation Facilities Construction funding, b.) standardizing the environmental review or NEPA process across federal agencies and c.) streamlining the residential leasing procedures through the Bureau of Indian Affairs.

Stable, consistent funding and processes would allow us to more strategically utilize the very limited available resources.

Another example of more effective utilization of limited resources is the Indian Community Development Block Grant. As the second largest Indian Tribe in the Nation, we could better plan housing, infrastructure development, and economic opportunities if we received funding through an allocation formula like large cities under the public CDBG, or for that matter NAHASDA.

As far as specific funding, I would like to draw your attention to an area of particular concern to Cherokee Nation: illegal drug use. Oklahoma has the dubious distinction of being ranked 4th in the United States for the highest number of methamphetamine "busts" or seizures.
When the Public Housing Drug Elimination Program was phased out, the monies previously set aside were instead placed in the Public Housing Capital Fund. Tribes and tribal housing authorities would have received funding for the Drug Elimination Program with such funds, but after the phase out there was never a corresponding appropriation back to NAHASDA. Tribes should be given access to these funds which were previously available through the Public Housing Drug Elimination Program.

I would also like to comment on the NAHASDA formula allocation for funding and the use of U.S. Census. The Cherokee Nation citizens and other Indians in our area are undercounted by whatever census classification or count, whether it be by "single race" or "multiple-race". However, Census information, at this point, is the only available information collected systematically in which we have confidence and the use of which was determined through negotiated rulemaking between the tribes and the Department of Housing and Urban Development. This use of census information should be used as long as it approximates citizenship. We believe any other use of Census classifications, such as a restriction to only using "single race," becomes purely a race-based policy rather than a "proxy" for citizenship in federally recognized tribes when the effect is to artificially underestimate the number of tribal citizens in an area. The use of the "multiple race" classification from the U.S. Census results in a more accurate estimate of the number of tribal citizens in our area, although even that number is undercounted. We support any system that is verifiable and reliable that best reflects the number of citizens of federally recognized tribes and Alaska Natives for specific formula areas.

Cherokee Nation supports any mechanism that is verifiable, reliable, and that best reflects the number of citizens of federally recognized tribes and Alaska Natives for specific formula areas.

Cherokee Nation is committed to being responsive to the needs of its members. We strive to assist federal agencies, Congress and other tribes in formulating regulations and policies that affect Indian services and programs. For example, Cherokee Nation fully participates in the process of providing comments to the Bureau of Indian Affairs' proposed regulations. Cherokee Nation also remains active in the legislative arena, both at the state and federal levels. We have faithfully undertaken the responsibility of insuring participation and involvement in government-to-government relationships of the future.

In closing, I would like to read the mission of the Cherokee Nation:

> **The Mission of the Cherokee Nation is "ga du gi"**:
> Working together as individuals, families, and communities for a quality of life for this and future generations by promoting confidence, the tribal culture and an effective sovereign government.

Cherokee Nation citizens are also citizens of our State, of our Nation, and of the World. We know that a successful Indian Housing Program depends on our program as well as our fellow Indian tribes' programs. We all know that by actively participating, consulting, and negotiating with federal agencies, we can truly build a successful program.

In the spirit of Ga-du-gi, we will "make ourselves useful" in any manner possible to this committee, just as you have done for the Cherokee Nation and other Indian tribes through your support of Indian programs, and Indian self-determination and self-governance.

Once again, thank you for the opportunity to submit testimony regarding this issue.

Testimony of

Russell Sossamon,
Chairman

NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Before the

HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
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"Improving Housing Opportunities for Native Americans"

Chairman Ney, Ranking Member Waters, and other distinguished members of the Subcommittee, on behalf of the Members of the National American Indian Housing Council (NAIHC) and its Board of Directors, thank you for this opportunity to participate today in this first-ever Congressional hearing on Indian housing. As the only national organization dedicated solely to Native American housing development and advocacy, you can imagine how pleased NAIHC is that attention is being brought to this area. My name is Russell Sossamon and I am both the NAIHC Chairman and Executive Director of the Choctaw Nation Housing Authority of Oklahoma.

NAIHC began as a data collection office for the BIA in 1974 in Nevada. Over the course of its 30-year history, NAIHC expanded its services to offer research, training, technical assistance and many programs tailored to the needs of both large and small tribes. In addition, NAIHC helped create AMERIND Risk Management Corporation in 1986, when insurance was unavailable in Tribal areas. After 30 years, NAIHC has 474 tribes as members, and is recognized as the leading national advocate for Indian housing.

Indian housing took a giant step forward with the 1996 passage of the Native American Housing Assistance and Self-Determination Act (NAHASDA), which created tribal self-determination over Indian housing programs. The Act provides block grant assistance to tribes for activities such as: housing development, housing services (ex: counseling), housing management services, crime prevention and safety activities, as well as model activities (ex: college housing).

Across the country, thousands of Native families are facing housing conditions similar to those in undeveloped countries. Compared to most American homes, many tribal homes lack proper sewage and water systems, adequate roads, telephone lines, indoor plumbing and electricity. The problem is exacerbated by the remote or rural locations of tribes, many of which have few, if any, economic opportunities. As mainstream society progressed, that development did not extend to Native communities, in part because of land jurisdiction, but for many other reasons as well, including federal policy.

Today I would like to focus on legislative initiatives we hope this Committee will support as well as answer the questions about current issues you have forwarded to me. But first, I would like to briefly touch on funding, data, and infrastructure development.

NATIVE AMERICAN HOUSING BLOCK GRANT FUNDING:

I was disappointed with the President's budget proposal for Indian housing in fiscal year 2005 because for the fourth year in a row it **does not include any increases for Indian housing in spite of the desperate need**. The poverty rate for Native Americans continues to hover at about 26%, which is more than double the poverty rate for the general American population. I would like to direct you to a "Fact Sheet" attached to the end of this testimony that will give you more information on the challenges facing tribal communities.

This Committee recently helped to reauthorize NAHASDA for another five years. You have passed difficult amendments packages in the last three Congressional sessions which have improved the Act greatly. My message to you today is that, while NAHASDA has ushered in a new era of leveraged funding and self-determination, the core fund must be increased to adequately support investment in more than 560 federally-recognized tribes. If there is not enough funding to put into the program much of your effort will remain unfulfilled.

NAIHC estimates that to meet the needs as presented to us now, we need **at least $1 billion *per year* in funding for the Native American Housing Block Grant**. We believe that $700 million for FY 2005 would be a step in the right direction. The President has proposed $647 million for fiscal year 2005. This is roughly the same amount that has been appropriated the last four years. Given the rate of inflation and increasing housing costs, housing funding has decreased under this Administration.

INDIAN HOUSING DATA:

We understand that Congress has been frustrated by the lack of hard data to support the yearly budget request for Indian housing. We share your frustration. You may be aware that last year HUD's Office of Native American Programs (ONAP) underwent a performance assessment through the Office of Management and Budget. ONAP received a poor score, due mainly to its lack of data and therefore its inability to measure performance, rather than through poor performance. We had hoped this assessment would lead to a swift implementation of a data collection system that would show what the tribes already know – that this program is working. HUD collects data yearly in Indian Housing Plans and Annual Performance Reports on such items as number of overcrowded units, number of housing units constructed, and number of housing units rehabilitated. Unfortunately, HUD still does not have a database that can pull this data together to give a national picture.

HUD announced in early 2003 that more than half of the funding appropriated to the NAHASDA block grant remained in the pipeline. NAIHC swiftly surveyed the Tribes and with a 65 percent response rate, we were able to show that the program has performed much better than HUD reported. In this year's Senate Indian Affairs Committee budget hearing, HUD recognized NAIHC's assistance in updating the data and testified that 88 percent of all grant funds have been obligated, which they say indicates that "the majority of tribes are obligating and spending their grants in an expeditious manner."

Since we at NAIHC know that more comprehensive data could be the key to increased appropriations and support in the authorizing committees for continuation of the program, we have decided to embark on our own

comprehensive data collection effort. A survey has been sent to all Tribes across the country that will seek to collect the kind of information required to show both what NAHASDA has accomplished, but also identify the current housing needs. We hope to report back to this Committee later this summer with facts and figures on the use of federal programs at various agencies, as well as a report on the services and banking opportunities that are currently available to tribes.

There is another aspect of Indian housing data that I would like to touch on today having to do with the use of Census data in the Native American Housing Block Grant formula to calculate population. Census data is used widely in determining individual allocations in federal programs for tribes, and therefore it greatly impacts the funding tribes receive from year to year. In 1990 a person filling out a Census form could select only one race, while in 2000 they could select one or several. Thus, under the 1990 Census, someone who is half Native American and half Caucasian, Black, Hispanic, or another race would have to choose a single race with which to identify. In the 2000 model, they can define themselves under more than one race. Thus, under the 2000 census, you have two numbers relating to the Indian population: 2.5 million individuals designating themselves under the category of Native Americans single race, and over 4 million individuals who categorize themselves as multi-race. Determining which Census number to use in the formula for the Native American Housing Block Grant program has now become an issue.

The situation needs a much more thorough analysis than what has been done so far to determine exactly what the impact of the new method of collecting Census data has on each tribe. Some believe that it has generally shifted funds from the more sparsely populated tribal reservation-based areas to areas which, while less remote, have greater population, and that this is an inequitable shift in the program. They argue that allowing someone to identify him or herself as Native American without being formally affiliated with a tribe distorts the population they feel tribal programs are meant to target. On the other hand, most AIAN people of today are not of a single race and would like to be identified in their true heritage, whether that is one or two or more races. They believe that while there may have been a shift in resources, the 2000 Census data is a more accurate reflection of tribal population in this day and age, and reflects a correction in a historical pattern.

Recently I sent a letter to the Financial Services Committee on behalf of the NAIHC Board of Directors, requesting a hearing on the use of Census data for the NAHBG formula. I would like to direct you to that letter for a more thorough review of the issue and hope that you will be able to assist in coming to some conclusion as to the best policy.

INDIAN HOUSING INFRASTRUCTURE:

For most Americans, the cost of basic infrastructure—like water, sewer and roads, is an expense shared by a local community, or paid for by county and state taxes. In Indian Country though, things are slightly different. Although tribes receive federal money for housing through the form of Native American Housing Block Grant funds, tribes are not able to build a home without putting infrastructure in place first. With limited funding, this results in some tribes with waiting lists as long as 5-6 years.

NAIHC issued a report on infrastructure in Indian Country in 2003. NAIHC's report revealed that a small percentage of tribal communities have no infrastructure in place, while in other areas, roads were described as "poor to fair" and sewer systems/facilities were described as "generally poor," negatively affecting not only housing, but also much-needed business development as well. With a large percent of the Native population in need of basic infrastructure, particularly as compared to businesses and schools in most of the United States, Native entrepreneurs are at a distinct disadvantage when it comes to successfully building or establishing a business.

Less than half of homes on reservations are connected to a public sewer system, making it necessary for some homes in Alaska Native Villages to dispose of sewage by using "honeybuckets," in which household waste is collected in containers and dumped on lands or even in lagoons near or on the reservation. Once rainwater comes into play, this can mean serious contamination and poisoned crops.

According to 2000 Census data, 12% of Native American households lack plumbing facilities compared to 1% of the general U.S. population. And 11% of Native households lack kitchen facilities compared to 1% of the general U.S.

As Native youth struggle with Third World conditions and limited economic prospects, their physical and mental health is in danger because in homes without kitchen facilities, residents encounter health issues such as an unclean water supply or difficulty ensuring safe food preparation and storage.

Congress needs to put greater emphasis on addressing the issue of basic infrastructure for tribes. In many cases the money is there in various agencies, but statutory or regulatory barriers keep them from working together to address tribal community needs as a whole. NAIHC has been working to remove one such barrier from the Indian Healthcare Improvement Reauthorization Act and from Interior appropriations bills that prohibits the use of Indian Health Service Sanitation Facilities Construction Funds from being used to service homes that are constructed using HUD dollars. This assumes that tribes receive enough funds to both construct homes *and* the needed infrastructure. What we request is that this decision be allowed to be made at the tribal level, not at the agency level.

The Indian Health Services has estimated at least $1.6 billion would be necessary to address housing infrastructure alone. We are pleased that the President, with the assistance of Health and Human Services Secretary Tommy Thompson, recognized the desperate need for improved water and sewer infrastructure in Indian Country by requesting a $10 million increase for Sanitation Facilities Construction in FY 2005. A similar requested increase of $20 million was disregarded by Congress in FY 2004. We hope that will not be the case again.

PENDING LEGISLATION:

While NAHASDA has improved the ability of tribes to serve the housing needs of their tribal members, several requirements of the Act continue to hamper progress. In response to a call to improve overall federal housing delivery to Native Americans, Senator Tim Johnson (D-SD) introduced the Native American Housing Enhancement Act in October 2003, which is now co-sponsored by Senator Michael Enzi (R-WY). The bill contains the following provisions:

1. Amends the 1949 Housing Act, which governs USDA housing programs, to allow tribes the same rights to Indian preference as HUD housing programs
2. Re-establishes the eligibility for tribes in HUD's YouthBuild program
3. Amends NAHASDA to allow for the establishment of reserve accounts
4. A technical correction for the treatment of program income under NAHASDA
5. Amends NAHASDA to allow for replacing the requirement of charging no more than 30% of adjusted income to a ceiling of Fair Market Rents

As the committee with jurisdiction over Indian housing legislation in the House of Representatives, we hope that the Financial Services Committee will support passage of this legislation before the end of the 108th Congress.

1. **Amending the Housing Act of 1949:** The Housing Act of 1949 is the funding statute for the United States Department of Agriculture's housing programs. As written, any affordable housing programs funded by USDA are subject to Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, including those programs accessible and applicable to Indian Tribes. Many tribal representatives, as well as the U.S. Department of Housing and Urban Development, believe that Title VI impedes tribal sovereignty by requiring tribes to sign a form stating they will comply with Title VI non-discrimination requirements based on race, color, and national origin. Instead, tribes argue that, as recognized sovereign governments, they should be able to sign assurances they will comply with Title II of the Indian Civil Rights Act, as allowed for in HUD programs.

The Rural Housing Service (RHS) under USDA is charged with providing program services to all eligible persons, and has established goals to reach rural America's underserved populations. Consequently, RHS has been actively trying to increase the delivery of their programs to Native Americans. However, in a recent inter-agency memorandum, the USDA Native American Coordinator cites obstacles with USDA's demand for Title VI compliance as the principal cause for USDA's inability to successfully implement programs for tribes. The Coordinator contends that an amendment to the Housing Act of 1949 permitting tribal compliance with the Indian Civil Rights Act in lieu of Title VI would not only replicate those civil rights guarded by Title VI, but would also allow for the proliferation of USDA programs on tribal lands.

The OGC at USDA has determined that tribes receiving federal housing assistance from USDA must comply with nondiscrimination requirements of Title VI unless the funding statute specifically exempts them from compliance. S.1802 would exempt tribes from compliance, but we recommend that the provision go further, to require that tribes abide by the Indian Civil Rights Act when receiving housing assistance from USDA rather than just being exempt from non-compliance. This would place USDA's programs in line with HUD's Native American Housing Assistance and Self-Determination Act. Our preferred language is as follows:

(k) Federally recognized Indian Tribes who exercise powers of self government (or their instrumentalities) must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301-1303) when receiving assistance under this title. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to tribes covered by the Indian Civil Rights Act or to tribes acting under Section 201(b) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101, et seq.)

2. **Inclusion in YouthBuild**: The unfortunate interplay between NAHASDA and tribal housing programs has resulted in Native youth being denied the opportunity to participate in YouthBuild, one of the most successful youth development programs in the U.S. The situation has been exacerbated by the recent elimination of the HUD Drug Elimination Program, which had been widely used to fund Native youth programs in the past. NAIHC seeks a change in policy to reinstate tribal eligibility in YouthBuild.

Native youth comprise only 1% of the general U.S. population, and they are highly and disproportionately represented in all categories of risk for youth. For these young people the obstacles to healthy families and success in school and work are staggering. Therefore, there is a high level of interest in YouthBuild from tribal governments, housing authorities, and non-profit organizations serving Native communities. In the 2001 and 2002 funding rounds HUD received 13 YouthBuild applications to serve Native youth but all were denied under HUD eligibility restrictions. These applications, if funded, would have channeled at least $5.2 million to YouthBuilds in Indian Country for the training of at least 300 young people and the construction of nearly 20 homes. YouthBuild USA, the national support center for local programs, has responded to requests from 50 tribal organizations and non-profits that serve tribal areas that are interested in starting YouthBuild programs. Currently there are only five YouthBuild programs that serve a significant number of Native youth, and only one of those programs is on reservation land. Prior to NAHASDA, Native youth participated in YouthBuild in significant numbers.

During the development of NAHASDA several existing federal programs, including YouthBuild, were bundled into the Act. This meant that YouthBuild became an eligible activity under NAHASDA, thus authorizing tribes to fund their own YouthBuild programs. Unfortunately, this shift from HUD YouthBuild funding to NAHASDA funding has not resulted in a single NAHASDA-funded YouthBuild program for Native youth. Further, given that tribal organizations are no longer eligible for HUD YouthBuild funding, the HUD-funded tribal programs operating prior to 1997 have shut down. Finally, as HUD interprets NAHASDA to exclude even non-tribal organizations that serve Native youth, several more YouthBuild programs are in financial jeopardy.

In the first three years of HUD funding for YouthBuild, tribes and tribal organizations were eligible to apply for funding. Since the passage of NAHASDA however, HUD has tightened eligibility requirements so that now, any organization—tribal or not—that proposes to serve Native youth is ineligible for HUD YouthBuild funding.

The flaw is that HUD bars participation in its grant program based on an organization's service to Indian youth whereas the rationale for the regulation is the appropriation of NAHASDA funds to tribes. **So the statute should, at most, bar recipients of NAHASDA funds from eligibility, not all organizations that serve Native youth.**

3. **Establishing Reserve Accounts:** As currently administered by HUD, NAHASDA leaves very little opportunity for Tribes/TDHEs to establish a reasonable amount of reserves for housing programs or projects. HUD's reasoning is based on the requirements that any funds drawn down from the Treasury must be spent within three (3) days before HUD will allow access to the Native American Housing Block Grant (NAHBG). However, Section 203(b) provides that a recipient "shall, using amounts of any grant received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing." Clearly, the original intent of Congress was to require that the Tribes/TDHEs have sufficient reserve amounts for efficient operation, proper maintenance of its units and completion of its projects. It is unreasonable and an affront to Indian self-determination to have to rely on HUD to be the holder of the reserves. A reserve account is a prudent business practice and can be a necessity to continued operations in times of political pressures, prior to annual Indian Housing Plan approval and other times of emergency including when appropriated funds are not yet available. Therefore, in order to allow Tribes/TDHEs the opportunity to establish, manage and administer a reserve account, NAHASDA should be amended to allow the placement of funds in a reserve account.

The NAHASDA program income amendment passed in 2002, which allows tribes to retain program income when moving on to their next grant, helped larger tribes with the issue of holding reserves because they generate a good amount of program income that can now be held from year to year. Unfortunately, smaller tribes do not generate enough program income to truly allow for reserves. One of the problems this has caused became painfully evident last year when NAHBG allocations for fiscal year 2003 were many months late in becoming available. Many small (and large) programs struggled to keep functioning from week to week because they did not have reserves to pay the bills until the new influx of federal funding. This affects administrative, maintenance, and subsidy services for the housing authorities, as well as affecting their ability to honor construction contracts.

4. **Treatment of Program Income:** In the NAHASDA amendments package passed in 2002 (P.L. 107-292), an amendment regarding the treatment of program income was incomplete. The amendment in S.1802 is a technical amendment adding four words "restrict access to or" to clarify how the amendment shall be implemented.

5. **Replacing the 30% Rule:** The 30% Rule requires that NAHASDA recipients charge tenants no more than 30% of their adjusted gross income. Following are reasons NAIHC feels this provision of NAHASDA should be changed, as provided for in S.1802:

- NAHASDA contains no requirement for TDHEs to collect rent at all. Except for the 30% rule, it is a fundamental principle of NAHASDA that tribes will determine for themselves program rules such as how rents are to be charged.
- Under the Public Housing Program (and pre-NAHASDA Indian programs) the difference between rent collected and the actual cost of running a housing program is compensated annually by an additional sum of money. NAHASDA does not draw any such additional subsidy, but is still required to make up the difference, resulting in less housing and housing services.
- The time, effort, and financial resources required to track tenant's income and make sure they certify every year is a huge administrative burden on programs.
- Using the 30% rule creates an incentive for tenants to misreport or under-report their income to avoid paying more rent. The rule unreasonably causes large segments of the tenant population to manipulate their reporting of household income. Sorting out and prosecuting these misrepresentations is a further burden on the administration of the program.
- Using the 30% rule creates competition and interference with other low-income housing programs in the same areas. Most low-income programs require rents of $100 to $300, but even though potential tenants can afford such rents, they prefer to stay in the units where rent is capped at 30% of their income.

- Permitting the option of a flat rent system would help a) eliminate the need for tracking income annually and other administrative burdens, b) give a reasonable expectation of payment to both the tenant and the TDHE, and c) help tenants appreciate the value of housing by contributing at least a nominal amount toward rent.
- Tribes should individually determine how much they will charge their tenants. The 30% rule is not imposed on other federal and HUD block grants or similar programs.
- Understanding that the 30% Rule is a protection for the tenant, tribal governments are directly responsible for their members and are unlikely to put them out on the street. As sovereign nations they should not be subject to a federal rule that second guesses their dedication and determination to helping their own people.

ANSWERS TO COMMITTEE QUESTIONS:

I appreciate that the Committee has forwarded questions to me in advance of this hearing. Answering them allows me to really get at the heart of what is happening and what is needed for housing development in Indian Country.

1.) What initiatives or partnerships have you taken part in or have knowledge of that are designed to contribute to the development of more housing for Native Americans and for tribal areas?

Indian country stands out in its extreme level of need and warrants the investment of resources that can fund a more aggressive and comprehensive approach to solving its problems. With the federal government's main Indian housing program, the Native American Housing Block Grant, only able to produce about 5,000 new units per year nationally, looking to other partnerships is the only way we as a people can hope to make progress. In fact, the very structure of NAHASDA has a lot to do with an increase in partnerships and leveraging. New initiatives in Indian Country over the past five years are too numerous to record here, but following is a summary of those we feel are having some of the greatest national impact.

1.) First is the **National American Indian Housing Council's** own **"Housing First for First Americans"** campaign: our answer to addressing the backlog of needed housing. The goal of this initiative is to facilitate the development of 100,000 new homes for First Americans over 10 years. This $10 million, wide-ranging capacity building program will include homeownership and rental units. Approximately 50 percent will be rehabbed and renovated housing.

While many elements of the proposed initiative are already in place through NAIHC's current work, we are developing new components to focus on the following four goals:

- Expanding homeownership in Indian country.
- Capacity-building utilizing the knowledge and skills of Tribal housing managers and providing them the necessary resources.
- Creating a national Indian Housing & Homeownership Center.
- Increasing lending opportunities for Tribal members.

To achieve these goals, NAIHC will launch four initiatives under its Housing First Campaign:

- NAIHC will make its current "Homebuyer Education Program" full-time, as well as launch a new "Native American Homebuyer" Website (nativeamericanhomebuyer.com).
- NAIHC will expand the financial/leveraging skills and knowledge of Indian housing managers through specialized training.
- NAIHC will promote non-predatory lenders, and build awareness of predatory lending practices in Indian country through a public education campaign.
- NAIHC will expand the capacity of Indian housing managers to enact community planning of new housing developments or authorize renovation of older housing.

Some of the activities planned for these initiatives include:

- Expanded involvement in the **Native American Homebuyer Education initiative**, a program supported by the **Ford Foundation, Enterprise Foundation, Neighborhood Reinvestment Corporation, and Fannie Mae Foundation**. This is a national effort to identify and train individuals in Indian Country who will then educate prospective homebuyers on their reservations. The **National Congress of American Indians** and **regional Indian housing associations** will also be an integral part of this initiative.
- The distance learning initiative would facilitate online training and enable students to receive pre-recorded training presentations. NAIHC is partnered with **AMERIND Risk Management Corporation** to launch an **Indian Housing Television Network Service** to be aired via the **Housing Television Network (HTVN),** which currently offers educational programs to other housing providers. The cost-effective interactive technology minimizes the time and money spent on traveling to trainings, particularly since many Tribes are located in remote areas.
- NAIHC will develop a **"List of Reputable Lenders"** it deems to be reliable and honest, for our members to consult. By establishing the reputations of these lenders in Indian country, the list will help tribes feel at ease when choosing lending partners.
- Members and tribes will be able to access an **"Affordable Housing Architectural Plans"** Website for affordable housing designs.

For further information on Housing First Campaign initiatives, please contact NAIHC.

NAIHC is targeting a number of organizations and foundations to raise the funds for "Housing First." To really have a substantial impact on the housing situation in Indian Country, we must utilize non-traditional sources. A lot of prominent people and entities care about social and economic injustice. What we want to do is bring our housing issues in Indian Country to the attention of these people and entities with the financial resources and commitment to help us help ourselves. While still in its infancy, the campaign has received support from some enterprising companies, banks and other financial institutions, including **Fannie Mae, GreenPoint Mortgage,** and **Washington Mutual**.

2.) **PMI Mortgage Insurance Co.** and **Fannie Mae** have joined to launch a revolving fund that will be used for new construction and rehabilitation of housing stock for the Pueblo of Acoma in New Mexico. Through the **Gateway Cities Initiative Fund**, Pueblo of Acoma will receive $150,000 from PMI and $25,000 from Fannie Mae. As each housing unit is completed, the Fund will be reimbursed from the proceeds of the sale.

3.) **Fannie Mae**'s goal for the third and final phase of its multi-billion-dollar **"Expanding the American Dream Commitment,"** partnering with the **National Association of Home Builders**, is to expand the stock of housing affordable to working families and to assist in the revitalization or development of 1,000 communities. This plan includes a focus on rural and tribal housing needs: over the next decade, an increase in mortgage financing to low and moderate income borrowers in rural areas by 30% or $30 billion, as well as plans to join with tribal leaders to create a new **Native American Strategic Partnership** to bring capital to Indian Country. Fannie Mae announced that it will increase investments to at least **$1.25 billion to support tribal housing initiatives**, working with tribal governments, the U.S. government, and lenders to simplify current processes that impede the development of homeownership opportunities in Indian Country. As part of its overall initiative, Fannie Mae has also funded NAIHC's **"Housing First for First Americans"** campaign.

4.) The **Northwest Area Foundation** is identifying at least 12 communities, including Indian reservations, with which to work intensively for up to 10 years to reduce poverty. The Foundation forms partnerships with these communities and encourages them to identify what they need and how they want to accomplish their goals.

5.) **NAIHC's Infrastructure Task Force** was formed last year to work on ways of dealing with housing infrastructure development in tribal areas, including water, sewer, telephone, roads, and other infrastructure taken for granted in most American communities. Infrastructure is more expensive for tribes because of the remote location of most reservations. No single agency has been able to provide adequate funding for tribal housing infrastructure programs, so the task force is seeking greater cooperation between the agencies to do combined projects. Participants in the task force include the **Departments of Housing and Urban Development, Agriculture, Indian Health Service, Environmental Protection Agency, Commerce,**

Economic Development Administration, and Treasury, as well as numerous tribes and organizations such as the **Rural Community Assistance Program**.

6.) **NAIHC, AMERIND Risk Management Corporation**, and the **Enterprise Foundation** have partnered to provide **Small Tribes Grants** to increase expertise to leverage and finance both rental and homeownership units for smaller tribal housing programs who often lack the capacity of their larger counterparts.

7.) For two years, the **Housing Assistance Council** has partnered with NAIHC on a conference geared to non-profit rural developers. The conference, **"Building Capacity, Building Homes: A Practitioner's Workshop on Native American Housing and Economic Development,"** focuses on three subject areas: infrastructure, housing development and economic development. The training event is sponsored by a grant from the **Ford Foundation.**

NAIHC has been working in concert with many other partners with the goal of finding resources – either human or financial – to assist the Tribes. Those partners include:

- Fannie Mae Partnership Offices
- Federal Reserve Banks
- First Nation Oweesta Institute
- State Housing Finance Agencies
- Federal Home Loan Banks
- USDA Rural Development
- Bureau of Indian Affairs
- Veterans Affairs
- Housing and Urban Development
- Indian Health Service
- Housing Assistance Council
- National Congress of American Indians
- Ford Foundation
- Enterprise Foundation
- Fannie Mae Foundation
- Local lenders

Here are some examples of what these partnerships accomplish:

- When we provide financial literacy training we also invite local lenders. We try to build the ladder to keep everyone informed and keep relationships ongoing so no partnership produces only a single project.
- First Nation Oweesta Institute was the original creator of the instructor and participant manuals used in the "Pathways Home: A Native Guide to Homeownership" program.
- Some tribes are unaware that many of the Rural Development programs at USDA can be used to lend on trust land, as long as certain documents in place. We facilitate that learning process and help tribes tap into Rural Development's many other resources for housing, sewer/water, community facilities, etc. by connecting the tribes with the USDA state office Native American coordinators.
- The Federal Home Loan Banks have a $250,000 nationwide program for down-payment and closing costs assistance that tribes are usually not aware of. NAIHC field staff are working to make that connection for better utilization of the program.
- The Enterprise Foundation, working closely with the New Mexico State Housing Finance Agency, has created a Coalition of Lenders in New Mexico to help tribes get tax credits and other housing financing.

In addition to the numerous national initiatives and programs already in place, underserved communities still have a need for lenders and other financial institutions to step up their mortgage loan activity to underserved areas, especially tribal areas. Furthermore, Native Americans often are unable to access financial institutions, many of which are not convenient to tribal areas. Much of the Native community is in need of homebuyer training, financial literacy skills or credit counseling. This leaves some Native homebuyers with little choice

than to accept loans with high interest rates, excessive fees, and discriminatory or unscrupulous practices. NAIHC will continue to seek partnerships like those referenced above and others to defeat these challenges.

2.) The BIA, the Federal Housing Administration, the Rural Housing Service, and the Veterans Administration are party to the One-Stop Mortgage initiative under which uniform documents are developed for leases, mortgages and foreclosure procedures for loans on trust land. Are you familiar with this initiative? How has this program contributed to greater homeownership initiatives?

The objectives of the One-Stop Mortgage Center Initiative were to simplify and shorten the mortgage lending process, build capacity of tribal communities, institutionalize programs and increase access to mortgage loans in Indian Country. As evidenced by the list of initiatives above and many others, we have seen a tremendous response to the needs of Indian Country, as laid out by this One-Stop program, including homebuyer education, capacity building, financial literacy, expansion of Individual Development Accounts, and creation of an interagency infrastructure roundtable.

The One-Stop Mortgage initiative has become an important resource for those tribes and Alaska Native Villages who want to pursue a homeownership program for their communities. The legal documents that have been developed for this initiative can be modified to meet each tribe's unique needs. In addition, it eliminates the requirements of waiving their Sovereign Immunity. Before One-Stop, Federal agencies had different applications and guidelines, but there was a big push to work on trust land. The complications of all the different guidelines caused many tribes to become disenchanted. One-Stop put together one-stop shopping with some generic documents so tribes did not have to continually reinvent the wheel or abide by a new set of rules for each agency. It has made it easier for a tribe that may not be sophisticated legally to do financial transactions once too complicated for them to attempt.

Based on the requests of our members, NAIHC is working to provide additional standardized documents to help tribes/TDHEs more effectively operate their local housing programs. In 2003, NAIHC developed 5 technical assistance documents. Topics were: A Set of Model Construction Contract Documents, an Executive Directors Orientation Manual, and three sample policies (Collections and Compliance, Procurement, and Real Property Acquisition). All of these are approved by HUD/ONAP (or will soon be approved) and will be reproduced and distributed free to tribes/TDHEs.

Another result of One-Stop was the eventual ability to refinance Section 184 loans, a welcome development for increasing use of that program. However, the momentum started with One-Stop needs to go a step further to create a cross-agency environmental review. In mixed-funding programs, doing multiple environmental reviews for each involved agency can be cost- and time-prohibitive for tribes.

3.) Much of the Native American land is held in a trust. The trust status creates unique challenges for those wishing to develop the private market. Tribes have limited sovereignty over their lands, but the BIA holds much of the land in trust. The trust status limits the type of economic activity allowed on Native American lands. How does this affect the private sector's ability to provide housing assistance to Native Americans? What action do you believe must be taken to encourage greater homeownership opportunities for Native Americans?

Bureau of Indian Affairs: Potential Native homebuyers seeking homes on trust or allotted land on reservations must have their leases recorded by their local Bureau of Indian Affairs (BIA) regional office in order to complete the home buying process. However, due to underused technology and various inefficient procedures, the BIA has a backlog of 332,448 documents that the General Accounting Office estimated would take more than 110 years to eliminate. Records are being maintained in antiquated ways, causing long delays that can extend the home buying process from weeks to years simply to obtain the title to tribal land. This problem alone is a major barrier to Native American homeownership and economic development opportunities.

Just like with the One-Stop Initiative, the BIA needs to standardize the land lease and title recordation process for all of its regional and local offices around the country to eliminate the problem of delays in mortgages being processed. All Title Status Reports (TSR) should be processed the same way in a timely manner within each BIA Area Office, facilitated by well-trained staff. For one family in Michigan it took three years to get a TSR. The Round Valley Indian Housing Authority in California is currently in its seventh year of waiting for recordation of titles for 30 homeownership units. There is no uniform system and lenders will just not wait that long.

In an attempt to deal with this issue, Congress authorized in 2000 and funded in 2002 an "Indian Land Title Report Commission" whose goal is to make recommendations to the Bureau for how to better facilitate home loan mortgages on trust land. The Commission is charged with analyzing the BIA's maintenance of land ownership records and title documents and issuing certified title status reports, then determine how best to improve or replace the system. Unfortunately, of the twelve Commissioners, only eight have been named. We urge the Administration to name the last four members so the Commission can work on solutions in this area that is so crucial to tribal development.

Lenders: Dealing with trust land is often an unsavory prospect for many lenders. Once they find out there is an extra step in the mortgage process they are loathe to embark on Native lending ventures, so the process needs to be made as smooth as possible. To help keep lenders interested, NAIHC is recommending that tribes secure the TSR *first*, before approaching a lender. Unfortunately, some lenders still red-line Native American borrowers out of mistrust and uncertainty about dealing with tribal land. However, the situation is sometimes further complicated when using HUD's loan guarantee programs – which were created as an incentive for lending on trust land – because some lenders simply don't trust HUD, even with a 100% loan guarantee. These continue to be problems, but some lenders have worked to overcome them.

Need for Education: The greatest need in this area, other than timely TSR processing, is education, first, by bringing tribes and lenders together to teach lenders that there is a profit to be made in Indian country. We must get rid of the idea that lending in Indian country is just to fulfill Community Reinvestment Act (CRA) requirements and that lenders will need to "give away" their products.

Additionally, many lenders are not familiar with Native culture, leading to mistrust of Native Americans. For example, when processing a loan application some lenders inquire about a family's other expenses, including that for food, then they do not believe what Natives report because in some areas they do a lot of hunting, receive federal commodities, or have combined households.

The education goes both ways. In training sessions, NAIHC tries to have lenders attend to speak with the tribes about what they have available and what the requirements are. Additionally, we try to involve the Federal Reserve Bank in training because if a family is having trouble with a lender they can turn to them as the regulator. For example, most tribal loans are going to be new construction loans because of the small supply of useful housing stock. Sometimes lenders will say they are simply not doing any new construction loans, so the family can take that up with the Federal Reserve. Right now most families, if they have problems, will wind up not doing anything.

Finally, education on the tribal level must include preparing families to be homeowners and changing the "HUD home" or "grant house" mentality. Many times tribal members will be the first generation in their family to own a home or live anywhere that is not federally subsidized. They must adjust from paying $100 a month to making a mortgage payment. We also must help tribal members understand that low housing costs and widely-subsidized housing is swiftly becoming a thing of the past. As tribes continue to convey mutual help homes from the 1937 Housing Act program there is a decreasing amount of administration funding in NAHASDA for assistance, and once they own a home they can no longer call the housing department to perform maintenance or replace a window. Many families don't understand that there is a whole new ballgame with NAHASDA's self-determination and leveraging aspect, and that there will not always be subsidy. While it is easier for many families to stay in a low-rent unit, that funding stream is dwindling, so we need to move into a variety of

products that we can take a family and look at where they are at financially, what are their dreams, and what can they afford, and offer them options. Education is not just to get every family a mortgage – we educate to make sure they know their options and there is someone there to help.

Loan Guarantees: The Section 184 Program and Title VI program at HUD were both very good ideas for helping tribes draw lending to trust land. Unfortunately, these programs have been largely underutilized for many reasons. One of the biggest reasons is how long it takes to get a TSR for the transaction. Another is how cumbersome the paperwork is. Many tribes who have done a successful 184 loan are unwilling to try to do another for both of these reasons. The backlog in credit authority is being targeted for rescission in this year's budget. It would be unfortunate to lose so much credit for loan guarantees, but until the BIA can process a timely TSR and the programs become more user-friendly, they are not going to be widely used by the tribes.

We would like to see HUD begin working more closely with the tribes on how to improve the programs in to allow easier access. Unfortunately we recently learned that HUD has moved in the other direction. Since its inception, the Title VI loan guarantee program provided a 95% guarantee. That was recently reduced to 80%. If Tribes were already struggling to finance Title VI projects, this certainly doesn't improve matters. In fact, we fear that the interest in this program could drop substantially so that any progress HUD hoped to make in increasing usage is unlikely to be realized. We understand that the guarantee perhaps should not have been set at 95% in the first place, but now the precedent has been set and we hope HUD will make every effort to address this situation.

4.) In 1997, the GAO reported that only 92 conventional home mortgages were made in tribal areas during the 5-year period from 1992 until 1996, and half of those were made on a single reservation where the tribe owned the bank. What changes or initiatives are necessary to encourage private mortgage market investment in Native American areas?

In order for tribes and housing entities to provide housing for their tribal members, they must have the support of more than just the federal agencies who are currently involved.

- Mortgage lenders, financial institutions and companies that manufacture goods for housing development must take a proactive role in Indian housing.
- Financial institutions need to step up their mortgage loan activity to underserved areas, especially tribes.
- If predatory lending is addressed, it will be easier to provide affordable housing because Native applicants will no longer be subject to high interest rates, excessive fees, and discriminatory or unscrupulous practices.
- NAIHC has kept a close watch on the recent flurry of bank mergers, notably the one between Bank of America Corporation and FleetBoston Financial Corporation. Before the second largest bank merger ever takes place, we are seeking concrete commitments that the Bank will serve the Native community.
- We encourage Federal Reserve to diligently continue overseeing not only Bank of America, but other financial institutions, ensuring that they meet their obligations to adequately serve all communities and in particular, those that are underserved.

One area that is vital for encouraging private mortgage market investment is to provide **basic banking services** in tribal areas. How can a mortgage market prosper when there is one bank branch in an area of several hundred square miles? Some tribal areas do not have any banking services whatsoever. After being targeted in the press for providing inadequate banking hours and services for the Navajo Nation, Wells Fargo recently agreed to expand banking hours of current branches on the reservation by two hours a day. The bank will also start cashing Social Security checks of tribal members, which they had not done previously. Navajo currently has one bank branch and four ATM machines to service more than 180,000 tribal members.

NAIHC also encourages the expansion of the use of **Individual Development Accounts** (IDA), for putting tribal members on the road to homeownership. Some Federal Home Loan Banks have set up IDAs where deposits from the family are matched by the bank in anticipation of a down-payment on a future mortgage. The matching funds create an incentive to save and give the family a stake in their own future. More banks should

be providing the same service. IDAs are still a form of subsidy, but without it most will not take the risk and would rather continue to rely on tribal housing departments. IDAs make it easier to get into a home, but at the same time, not too easy. Tribes have the challenge of seeing so many families they want to put into a new home, but know they are not ready to be homeowners. IDAs can begin to bridge that gap.

One possible new initiative would be to create an **incentive for tribes** to cultivate private investment. Right now, most incentives are for the lender in the forms of guarantees or the ability to meet CRA requirements. Other than the desire to put their members in homes, there is no real incentive for tribes to do private lending. Perhaps there could be some monetary incentive to reward leveraging. For example, if a tribe combines its own funds with NAHASDA funds, at some point they could get some of it back. The opposite currently exists at HUD – you get more money because you have fewer resources. You are rewarded for having a depressed economy. There is not a solid incentive to improve that economy.

Leveraging made possible under NAHASDA is a great opportunity that many tribes are taking advantage of, but it is still developing in Indian Country. Those who are positioned well to be successful are successful. But those with poor economies, a lack of jobs, or a poor location are not well positioned and will continue to struggle under NAHASDA until their situation improves.

With the development of private sector lending, time is required for tribes to ramp up to the sort of volume lenders need for it to be cost-effective. The volume will be created by educated homebuyers. However, the sort of volume lenders get from lending to clean-credit homebuyers in American suburbia is just not going to be there in remote tribal locations. We need to meet somewhere in the middle.

Homebuyer education is a critical component of any homeownership initiative in Indian Country. To help speed up the "ramp up" of tribal communities, NAIHC has embarked on a new Homebuyer training program, mentioned earlier. The partnership and program, called **"Pathways to Homeownership,"** trains trainers to implement homebuyer education programs on a local level. Lenders and others involved in the mortgage process will be a part of this certified program. NAIHC feels very strongly that the more we involve the people who are a part of the mortgage lending process, the better responses and relationships will be formed and nurtured.

NAIHC receives a yearly appropriation from Congress to provide technical assistance and training to Tribes to implement federal housing programs, but we also last year received a grant from HUD to develop the housing counseling manual used in Pathways (above). Many local, regional, and national Native American homebuyer educational products exist. However, none are culturally specific enough for Native Americans and they are not provided in a user-friendly format, such as providing participant's guides and instructor's guides. In addition, other national non-Native products are available; however, they are not, for the most part, relevant to the mortgage issues that confront Native land issues. Prior to the inception of NAHASDA and the development of the FHA 248 and HUD 184 Indian Loan Guarantee Programs, tribal trust land was not securable under conventional mortgage financing. Financing was unavailable to Native people wanting to build, purchase, or rehabilitate homes on their own tribal land. However, since NAHASDA, home loans can now be secured by way of a leasehold mortgage. Mortgage financing is finally a viable resource for qualifying members of the Native American and Alaskan Native communities. Tribal people need to become aware of these opportunities.

In most cases Native families are either first generation mortgage loan recipients or first–time mortgage loan recipients. Tribal families often seek assistance to learn about homeownership, its benefits, and requirements because it is unfamiliar territory. In some instances, they may have less than good credit or no credit history at all, or they may not be familiar with the mortgage lending process and required home maintenance activities. Education and counseling is imperative in helping a Native American individual or family become a successful homeowner.

The more sophisticated and knowledgeable our people get in the area of housing finance the more likely they are to be successful.

CONCLUSION:

In closing, we understand there are always going to be prevailing issues that will tend to overshadow tribal needs, but we urge you to not forget the desperate housing conditions Native Americans are enduring day after day. Consistent growth in the housing industry has been one of the brightest spots in our lagging economy. Don't allow Tribes to be left behind just when they are making headway in building sustainable tribal communities.

I would again like to thank all the members of this subcommittee, in particular Chairman Ney, for holding this hearing today. NAIHC looks forward to working with each of you in the rest of this session of Congress and I am happy to answer any questions you may have.

: National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations ionwide. It operates a national technical assistance and training program as well as the Native American Housing Resource Cente shington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second Street, NE, te 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; http://www.naihc.net.

Biography
Russell Sossamon
Chairman, National American Indian Housing Council

Russell "Rusty" Sossamon is presently serving as the Executive Director for the Housing Authority of the Choctaw Nation of Oklahoma. The Housing Authority of the Choctaw Nation is the Tribally Designated Housing Entity of the Choctaw Nation of Oklahoma under the Native American Housing Assistance and Self-Determination Act. The Housing Authority's mission is to provide the Choctaw people with the opportunity for decent, safe, and sanitary housing while building stronger, healthier communities and promoting economic independence.

Prior to being promoted to the position of Executive Director in August of 1997, Mr. Sossamon served as the Deputy Director for the Housing Authority. Mr. Sossamon held the positions of Job Developer, Senior Counselor and Assistant Director for the Choctaw Nation Vocational Rehabilitation Program based in Hugo, Oklahoma before joining the Housing Authority staff.

Mr. Sossamon served as President of the Southern Plains Indian Housing Association, Region IV, and as Board Member for the National American Indian Housing Council (NAIHC) prior to being elected the Chairman of NAIHC in June, 2002. He has served as a delegate with Oklahoma Partnerships Revitalizing Affordable Housing. Speaker Loyd Benson appointed him as a member of the Rural Housing Incentive Study Task Force representing Congressional District #3 in July 2000. He serves as a founding Board Member of the Tribally-sponsored Boys and Girls Club. He also serves as a member of the Southwest Regional Fannie Mae Advisory Board.

Mr. Sossamon has worked extensively under the direction of Choctaw Chief Gregory E. Pyle in developing programs to enable Choctaw Tribal members in other states the opportunity to become homeowners.

He attended Southeastern Oklahoma State University in Durant, Oklahoma graduating in May of 1987 where he received a B.S. in Economics with a minor in Business Administration and Political Science. He ventured into the field of retail for a short time before beginning his service with the Choctaw Nation.

Mr. Sossamon is a Choctaw Tribal member. He and his wife Laura have two sons, William and Aaron. They reside in Hugo, Oklahoma.

FACT SHEET: NATIVE AMERICANS AND HOUSING (revised)

- **Housing Needs:** An estimated 200,000 housing units are needed immediately in Indian country. (U.S. Commission on Civil Rights, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," 2003)
- **Homeless:** Approximately 90,000 Native families are homeless or under-housed. (U.S. Commission on Civil Rights, "Quiet Crisis," 2003)
- **Overcrowding:** In tribal areas, 14.7 percent of homes are overcrowded, compared to 5.7 percent of homes of the general U.S. population. (Census Bureau, 2000)
- **Plumbing:** On Native American lands, 11.7 percent of residents lack complete plumbing facilities, compared to 1.2 percent of the general U.S. population. (Census Bureau, 2000)
- **Telephone Service:** Compared to the 2.4 percent of the American population, 16.9 percent of Native Americans in tribal areas lack telephone service. (Census Bureau, 2000)
- **Indian Housing Funding:** Approximately $650 million a year has been appropriated towards Native housing over the last few years. Funds are distributed to 575 housing entities, amounting to an average of $1.1 million per tribe. Of that funding amount, about 40 percent, or ($440,000 per tribe) goes towards new housing construction. (U.S. Commission on Civil Rights, "Quiet Crisis," 2003)
- **Cost of New Homes:** The average cost of a new home on a reservation is $125,000. (U.S. Department of Housing and Urban Development (HUD), 2003)
- **Tribes:** There are 562 federally-recognized tribes, of these, 229 are Alaska Native Villages. (Federal Register, 12-05-03; Vol. 68, No. 234)
- **Total Population:** There are 2.5 million Native Americans and Alaska Natives in the United States (single race), accounting for 0.9 percent of the total population. (Census Bureau, 2000) There are 4.3 million people (mixed race), totaling 1.5 percent of the entire U.S. population. (Census Bureau, 2002)
- **Location:** A total of 34 percent of the Native population resides in rural areas, where many reservations are located. (Census Bureau, American Indian/Alaska Native Heritage Month, 2003)
- **Income:** Native Americans have the second lowest median household income, $32,116, while whites have the highest at $46,305. (Census Bureau press release, 9-24-2002)
- **Poverty Rate:** The poverty rate for Native Americans is approximately 26 percent—2.6 times higher than that for whites and more than twice the average for all Americans, at approximately 12 percent. (Census Bureau, 2000)
- **Unemployment Rate:** Compared to 5.8 percent of the general U.S. population, 13.6 percent of the workforce on reservation areas is unemployed. (Census Bureau, 2000)
- **Employment Data:** A total of 56.5 percent of the population of trust lands and reservations is in the workforce (16 years of age and older). (Census Bureau, 2000)
- **Tribes and Economic Development:** The majority of tribes, a total of 361, are without gaming. (National Indian Gaming Association website, 2003)
- **Mortgages Made On Trust Lands:** As of 2002, 354 loans were made for Section 184, 760 loans for Section 248 and 153 loans for the Rural Housing Service Section 502 (Direct Loans). (General Accounting Office Report, "Native American Housing: VA Could Address Some Barriers to Participation in Direct Loan Program," 2002)
- **Loan Foreclosure and Delinquency Rates:** The foreclosure rate for Native Americans on Section 184 loans is .011 percent, while the delinquency rate is 7.7 percent. (HUD as of 4-21-2004)

Denial rates for conventional home purchase loans:

	In 2001	In 2002
Native American	35 %	23 %
White	16 %	12 %
Hispanic	23 %	18 %
Black	36 %	26 %
Asian	11 %	10 %

The number of conventional/government-backed home purchase loans made to Americans:

	In 2001	In 2002	% change
Native American	15,279	18,752	23%
White	3,257,542	3,341,732	3%
Hispanic	405,809	449,893	11%
Black	285,243	291,491	2%
Asian	175,151	206,909	18%

(All loan data from: Federal Financial Institutions Examination Council for institutions covered by the Home Mortgage Disclosure Act, August 2003)

National American Indian Housing Council, 900 Second St. NE, Suite 305, Washington, DC 20002 www.naihc.net
Revised 04-27-04

TESTIMONY FOR THE RECORD
WAYNE TAYLOR, JR., CHAIRMAN, THE HOPI TRIBE
TO THE SUBCOMMITTE ON HOUSING AND COMMUNITY OPPORTUNITY
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 3, 2004

Honorable Members of the United States Congress, Honorable Tribal Chairmen, Invited Guests, and our Navajo and Hopi Tribal members, Welcome.

My name is Wayne Taylor, Jr. and I am Chairman of the Hopi Tribe.

My remarks today focus on the need to increase the opportunities for Hopi people to live in quality and affordable housing and to improve our participation under the Native American Housing Assistance and Self-Determination Act (NAHASDA). In addition, I will offer my thoughts on some of the critical legislative and policy issues related to housing that require the attention of our Congressional Delegation.

By way of background, the Hopi people and their ancestors have lived in Northern Arizona and the southwest in general for many thousands of years. Our ancestors' once thriving but now abandoned villages can be found throughout portions of Arizona, New Mexico, Colorado and Utah. In 1882, the United States set aside a small portion of our former ancestral home as a reservation intended as a permanent home and abiding place for the Hopi. The Hopi Village of Oraibi was a bustling community many centuries before the coming of the European explorers and today is recognized as the oldest continuously inhabited community in North America. Our Reservation—some 1.6 million acres of land—is situated in the middle of the Arizona portion of the Navajo Reservation. The 12 villages of the Hopi Reservation are within a two-hour drive of the non-Indian Border towns of Flagstaff, Winslow and Holbrook. We are cross-town neighbors to the Navajo community at Tuba City. According to the most recent population data, the Hopi Tribe has an on-reservation population of 8,000 tribal members with another 4,000 members living off the reservation. Our labor force population is 5,222 and we have an unemployment rate of 62%. The average household income for families in the Hopi communities is $26,543, which is almost $6,870 less than the income

for neighboring non-Indian communities in Coconino and Navajo counties. These statistics are taken from the most current United States Census data and the Tribe's Enrollment database.

The Hopi have a long history of housing development. As settled village dwellers, the Hopi built and maintained community development projects throughout the thousands of years of their history preceding the founding of the United States. Hopi communities were designed and constructed not simply as shelter from the elements, but rather as places of safety and social cohesion. The Hopi village was a place where individual families could live comfortably, practice their agrarian economy, attend to their religious obligations and build a society that took care of its community members and offered them a clear direction toward future security and prosperity. Anyone visiting Hopi villages today will see Hopi homes, built by Hopi hands that that have been passed down through family and clan inheritance for many hundreds of years. Generations of Hopi people have literally been born, raised and passed on in Hopi Housing built by their ancestors. Unfortunately, our ability to keep pace with the need for new housing through modern housing programs has not come close to matching the ingenuity and adaptability of our ancestors. Hopi people simply do not have sufficient quality and affordable housing to meet existing and projected needs.

Housing is currently one of the greatest challenges facing the Hopi people. Housing development faces a number of challenges. Finding suitable locations for new housing can be extremely difficult because of our system of village and clan land holdings that restricts the building of new homes in close proximity to the historic villages and reserves much of the land for agricultural and religious practices. Of course, this is a matter within the political control of the Hopi Tribe and its villages and will have to be worked out according to those political processes. Our solution is to move new housing into areas not subject to such restrictions, however in such locations we face the difficulty of developing basic infrastructure (water, sewer, electricity, and roads), and the lack of funds for construction activity. As our Hopi population grows and, the demand for housing increases, we fear these problems will only become worse.

The Hopi Tribe is an active participant in the Department of Housing and Urban Development (HUD) programs. The Hopi Tribal Housing Authority (HTHA) was created in 1966 as a public body of the Hopi Tribe. This year, 2004, marks the 37th year of operation with over 300 housing units under HTHA management. These housing units consist of 320 Mutual Help and NAHASDA units located on the reservation and 33 Low Rent homes located on Hopi trust property near Winslow Arizona. In addition, there are more than 1,100 HUD houses in the homeowners program. The Hopi Tribal Council appoints a five-member Board of Commissioners that governs the HTHA. The Board is responsible for policy creation and implementation, and the general operating responsibilities of HTHA through Hopi Tribal Ordinance 15. We are the first to admit that a construction of a mere 1200 to 1400 homes over 37 years is not a stellar performance, especially when you consider the scope of the unmet housing need.

The statistics related to affordable housing for the Hopi Tribe are disturbing and discouraging. According to recent surveys conducted by the Hopi Tribal Housing Authority, there are 2,485 families living on the Hopi Reservation of which 2,043 are low-income; 1,215 Hopi families live in sub-standard housing units and nearly 691 families live in over-crowded conditions, usually sharing the same household with other family members. The same survey shows that there are 1,116 owner-occupied units and 137 renter occupied units under the HUD housing program for total units of 1,253. The statistics for these 1,253 units are startling but not surprising: Of the 1,253 units, 436 are in standard condition; 337 require minor rehabilitation; 439 require substantial rehabilitation; 29 are dilapidated and require replacement; and 10 are of unknown structural condition. Financial assistance is badly needed to repair and rehabilitate 773 units and to rebuild 29 new units. (Source: HTHA IHP 2004). The above statistics apply only to the HTHA Indian Housing Plan for 2004.

The need for affordable housing applies equally throughout Hopi lands. Walpi Housing Program, with 73 units under their program, reports that they have a waiting list of 45-50 individuals wanting housing at their location. On the average, Walpi Housing Office

receives up to six (6) calls per month from people wanting housing for their families. There is dire need for rental units for Hopi individuals who have no place to go because their family housing is already crowded or because they have no village lands to build upon.

The following statement is startling: ***It will take the Hopi people 123 years to meet the current demands for housing that is a result of overcrowded conditions.*** This is not a worst-case scenario; this is the current trend. It was included by the HTHA in their 2004 IHP report.

What is the Hopi tribal government doing about these housing concerns? A number of years ago, the Hopi Tribal Council approved a Comprehensive Land Use Plan and within this plan designated five (5) new community sites to be located on the Hopi Partitioned Lands. One such site is the Tawaovi Community. The new community of Tawaovi is located 15 miles north of Second Mesa along BIA route 4, also known as the Turquoise Trail. The Tawaovi Community provides for mixed used housing, commercial and industrial development, ranching and farming, and other government facilities. We are working with the local Housing Authority to plan new housing for these communities. We need congressional support to make the plans a reality.

The Hopi Tribal Council is addressing additional challenges. A streamlined process regarding the BIA's leasing policies and the use of HUD's format of NEPA compliance documents need to be addressed also. Alternate sources of funding will be explored and pursued. Local policy can be changed to accommodate these new changes. Cooperation between the HTHA, the Hopi Tribe, the State of Arizona, and the various agencies that provide services regarding housing, infrastructure development, financing, and homeownership needs to be established.

I would like to take a moment to suggest several legislative remedies that can serve to integrate tribal housing development opportunities to help us better serve the basic needs of our Hopi people.

I. Indian Health Service – Public Law 86-121.

Under NAHASDA, Indian Health Service is not required to review the feasibility of proposed sites for water and sewer projects. This factor puts considerable burden and incredible strain on water and sewer infrastructure development projects on our reservation. Basically, HUD is prohibited from earmarking portions of housing funds to pay for infrastructure directly to Indian Health Services thus causing strain on tribal governments.

I urge Congress to remove language from Senate Bill 556, the Indian Healthcare Improvement Reauthorization Act of 2003 that prevents tribes from leveraging HUD funds with Indian Health Services Sanitation Facilities Construction Funds.

II. Federal Appropriations.

The Hopi Tribe understands and appreciates its annual appropriation of $3.2 million for NAHASDA funding. The Hopi Tribe understands and respects the conflicting priorities that the war on terrorism has placed on Congress and the President. However, the needs of Indian Country must also be a priority.

As the House and Senate continues negotiations on the Fiscal Year 2005 budget resolution, I urge Congress to help protect Indian housing funding from cuts in what may be the worst ever budget year for our tribes.

II. Census Data.

HUD's use of 2000 multi-race Census data instead of the 1990 single-race Census data for the NAHBG formula has affected the funding amount for the Hopi housing programs. Whether the conflict is over what is the best policy and which data best represents tribal populations, the simple fact is that our tribal population was not accurately counted and represented in the 2000 census. The end result will be the loss of considerable housing

funds to the Hopi Tribe at the expense of more funding to those tribes that benefit from the multi-race formula.

III. Tribal Consultation.

The current HUD tribal consultation practices do not allow or provide for Indian tribes' input into the annual federal budget development process.

In November 6, 2000, President Clinton issued a Presidential Executive Order that ordered Consultation and Coordination with Indian Tribal Governments and required all federal agencies to "establish regular and meaningful consultation and collaboration" with tribes. HUD's Tribal Government to Government Consultation Policy requires HUD to seek tribal input and this tribal input shall be a necessary and integral part of HUD's decision-making process. The decisions made on each fiscal year funding allocation with tribal input would strengthen the policy as intended by the Executive Order.

I urge HUD to work more closely with Tribes who know best what challenges they face in providing adequate housing for their members.

IV. Conclusion.

In conclusion, the Hopi Tribe appreciates your past support in addressing important issues that currently hinder economic and housing development opportunities within the Hopi Reservation. I look forward to continuing this strong relationship with our Congressional Delegation from Arizona and with all Members of Congress and in the Administration who are willing to help us address these important issues. Thank you.

WHITE MOUNTAIN APACHE TRIBE
Subcommittee on Housing and Community Opportunity
Tuba City, AZ
May 3, 2004

1. **What Native American housing programs do you have knowledge of or participate in under the jurisdiction of the Department of Housing and Urban Development (HUD)?**

I am knowledgeable of the new housing legislation, NAHASDA that was enacted in 1996. Under that new federal housing program for Native Americans, we had designated our housing authority, the White Mountain Apache Housing Authority (WMAHA), as the Tribally Designated Housing Entity (TDHE) and we have been very successful in carrying out affordable housing opportunities for our tribal members. I believe we are at the forefront of Tribes/TDHEs across the country to take full advantage of the leveraging opportunities with willing financial partners that have opened under this new Indian housing law. We have accomplished a lot of "first ever" initiatives, such as:

- Issuing a tax-exempt bond in the amount of $25 million to build 250 new homes, which has increased to 317 due to cost saving measures in our construction methods. This bond issuance was only possible through the collateralization of HUD's Section 184 Loan Program on each of the construction/mortgage loans executed with our lending institution, Bank One. We called this lease-purchase mortgage-based homeownership Program Apache Dawn.
- Since the creation of this housing authority back in 1963, for the first time, under Apache Dawn, we used our own tribal resources for the material (FATCO, FATCO Home Center, Public Works) and contractors utilized tribal employment in significant numbers for the construction of homes.
- We were also the first tribe in AZ to receive a low interest loan to address our infrastructure needs from the Arizona Water Infrastructure Finance Authority (WIFA) in the amount of $5 million. This was a true tri-governmental relationship between our Tribe, State and Federal agencies. WIFA had to qualify as an approved lender under HUD's Title VI Loan Guarantee Program in order to minimize their risk and make the loan possible for our Tribe
- Since the creation of a Housing Department under the State of Arizona by our good friend, Janet Napolitano, who is the first Governor who has shown a true concern and is proactive to address our Tribal housing situation in the State of AZ, we were the first tribe to partner with their office in addressing our badly

needed rehab needs for our housing units through both their Tax Credit and State Housing Fund Programs. We are fortunate to have a very strong State government relationship in all our housing endeavors.

In addition to these "first ever" initiatives, the WMAHA has aggressively applied for HUD and other outside grant sources that have enabled a total of over $80 million dollars to be infused into our tribal community since 1998. This has proved that the new Indian Housing law can work for Tribes with a capable and committed team of housing staff, expert consultants combined with strong Tribal and community support.

2. **In 1996, Congress passed the Native American Housing Assistance and Self-Determination Act (NAHASDA), which is designed to provide federal housing assistance for Native American Tribes in a manner that recognizes the right of tribal self-governance. The office of Native American Programs (ONAP) in HUD's office of Public and Indian Housing (PIH) administer these programs. What has been your experience with the administration of the Native American housing programs? Do you have any suggestions on how to make the programs more effective and/or efficient?**

In addition to the response in Item # 1, we have received strong support of both our local and national ONAP offices. As stated above, we have had a very successful relationship with the Phoenix, Denver and Headquarters' administration of the Native American Housing Program.

The new Indian Housing law allows the opportunity to work with other funding agencies to address rehab and/or new construction needs including costly off-site infrastructure systems. In working with other agencies, we have encountered several obstacles in our attempts to increase the assistance needed to our tribal members. These include:

- In partnership with the Federal Home Loan Bank (FHLB)'s Affordable Housing Program (AHP), we have encountered several program differences for delivery of assistance to Native American communities. These include, the unique need to address the trust land issues in the execution of regulatory agreements, the low-income threshold requirements under NAHASDA, unique BIA land issues, and risk issues for furthering banking relationships.
- In partnership with the US Department of Health and Human Service's Indian Health Service (IHS) technical arm, we have encountered one major regulatory prohibition that hinders assistance to Tribal members. The Tribes are prohibited from

obtaining assistance to homes if the homes are receiving assistance from HUD. Since the sources of funding are both Federal assistance, the IHS statute and program regulations restrictions should be removed to allow its use in a coordinated manner at the local level or reallocate such funds at the national level from IHS to HUD to address infrastructure needs from one federal funding source.

- Even though it is a sensitive issue for those Tribes that are not obligating their funds in a timely fashion and possibly be subject to recapture of funds and returned to the US Treasury; rather, a mechanism needs to be put in place to reallocate those funds to Tribes that have a proven track record of effectively addressing their housing needs in a timely manner. While this may not uniformly address each Tribe's respective needs, it will address the overall backlog housing needs of Tribes in the aggregate from the Congressional point of view and all funds would still be directed at addressing this vast problem rather than returned to the general Treasury fund and not address the housing problem.
- A means of stable employment is necessary for Tribal members in order to make house payments. This leads to the need for economic development to sustain tribal communities and to become truly self-determined. Therefore, the program regulations should be able to allow economic development as an eligible activity as it relates to further affordable housing.

This should not be considered an exhaustive list, but are those that we have seen as obstacles as experienced by the White Mountain Apache Housing Authority that need immediate attention by respective responsible Federal officials for the sake of all tribes. We stand ready to address and work cooperatively towards working solutions to enable all Tribes to better address and solve their housing needs.

3. **Have you participated in or do you have knowledge of programs under the Rural Housing Service that are available to assist Native Americans' housing needs? Please explain.**

We have used the US Department of Agriculture's Rural Development Program to receive a combination grant/loan fund to address our infrastructure needs. These funds were supplemented by NAHASDA and WIFA funds as described above to provide the construction of a regional water and wastewater treatment facility at Hondah. This will greatly increase the capacity to accommodate planned expansion of our Hondah Home Sites and Apache Dawn homes funded under NAHASDA.

Our TDHE, the White Mountain Apache Housing Authority, also plans to utilize USDA's Rural Housing Service in the near future to expand housing assistance services for our Tribe.

4. **Much of the Native American land is held in a trust. How does this affect the ability to provide adequate housing assistance to Native Americans? What steps can be taken to increase private market initiatives and to promote greater homeownership opportunities for Native Americans?**

All of our land is trust land. With the assistance of the federal loan guarantee programs offered under the HUD Section 184 and Title VI provisions of NAHASDA, we are able to bridge the housing needs for both subsidized and mortgaged-based programs with approved BIA land leases for two consecutive periods of 25 years for our tribal members. The maximum lease period of 50 years specified in the NAHASDA statute needs to be changed to allow for an even longer period of time.

Steps that can be taken to increase private market initiatives is to maintain and/or increase the levels of the federal loan authority under the two HUD loan guarantee programs that have worked successfully for our Tribe, namely, the Section 184 and Title VI Programs. Eligibility criteria should also be expanded to fill the pocket of need for those families that are not low income which is a growing segment of Tribal population and cannot secure mortgage financing on trust land without some form of federal loan guarantee Education about these programs should also continue to both Tribes and the private financial sectors on how these programs work. Heavy education should also continue to Native Americans on the benefits of true homeownership as well as financial literacy education.

* * * * *

Dallas Massey, Sr. is our youngest Chairman ever elected to serve the White Mountain Apache Tribe for the second term. Mr. Massey was (47) years of age at the time of election. Mr. Massey was elected for the Executive Office of the Chairman on April 1, 1998, and again re-elected on April 1, 2002 by a popular voted by the people of the Fort Apache Indian Reservation. Mr. Massey's marriage to Eunice Aday Massey took place on September 30, 1972, and they now have two grown sons, David Massey who resides in California and Dallas Massey, Jr. completed school now resides at home with his parents. Mr. Massey oversees over 13,000 tribal members and 1.6 million acres.

PHONE NO. : 520.369.2064 AUG. 28 2000 09:20AM P1

Post-it™ Fax Note 7671	Date 8/28/00 # of pages ▶ 4
To Chairman Massey	From Ruby R
Co./Dept. WMAT	Co. CDC
Phone #	Phone #
Fax # 338-1514	Fax # 369-2064

DALLAS MASSEY, SR.

P O Box 1421 • Whiteriver, Az 85941 • Telephone: (520) 338-1771

OBJECTIVE

Seeking the Office of Chairman for the White Mountain Apache Tribe and requesting for your support and vote at the general election to be held April 1, 1998.

EDUCATION

ALCHESAY HIGH SCHOOL
Diploma, 1969

FORT LEWIS COLLEGE
Business Administration, 1970 - 1973

NORTHLAND PIONEER COLLEGE
Accounting, 1974

EXPERIENCE

BUREAU OF INDIAN AFFAIR, FORT APACHE AGENCY
Tribal Relations Specialist, July 1989 to Present

Responsible to provide advice in the field of tribal affairs to tribal officials in drafting codes, ordinances, resolutions, constitutions and chapters of incorporation.
Responsible for securing prompt and sympathetic action and follow-up with tribal officials and agency personnel on all tribal actions.
Initiated, developed, and formalized procedures for the preparation of tribal rolls, including membership roll, payment roll, and final roll.
Furnished technical assistance to the Tribe in determining procedures for enrollment for tribal purposes such as, eligibility for enrollment, qualifications for adoptions, loss of membership, machinery for appeals, correction of existing rolls, and such other related problems as may confront the tribal government.
Researched birth certificates, census numbers, marriage licenses, military records, certificate of Indian blood degrees, Tribal Council minutes, tribal ordinances and resolutions passed, and other legal documents for process by the agency.
Observed the tribal government and the operation of tribal enterprises.
Reviewed and developed training device which are used by tribal officials and employees in connection with training under the PL 93-638.
Reviewed the educational devices used by tribal officials in existing political structure.
Gave advice on techniques for improving and strengthening the tribal government and methods for orientating newly elected Tribal Council members and officials.
Worked in cooperation with the Superintendent to develop and formulate

instructions and procedures to implement Bureau and Area Office policy decision affecting the tribal government.
Interpreted the applicability of pertinent legislative enactments affecting the Tribe.
Reviewed all tribal enactments to ascertain that constitutional charter, legislative and regulatory requirements are observed and recommend for or against approval.
Assisted the Tribe in the proper documentation of tribal budgets and monitored such requests for orderly advancement of tribal funds for tribal program implementations.
Administered the Tribal Operations office in accordance with Bureau and tribal regulations to assist the Tribe and individual Indians pertaining to tribal enrollment, etc.
Attended regular and special tribal council meetings and served as advisor to the Fort Apache Agency Superintendent and the Tribal Council on matters important to the Tribe and Bureau.
Served as ex officio to the Enrollment Committee on tribal enrollment matters.
Reviewed and maintained files on resolutions enacted by the Tribal Council.
Reviewed tribal attorney contracts.
Participated in the Bureau's and Tribe's budget reviews.

BUREAU OF INDIAN AFFAIRS, FORT APACHE AGENCY
Loan Specialist (General), July 1978 to July 1989

Administered the Agency Credit Program in accordance with bureau regulations to assist Tribes and individual Indians in obtaining financing for loans and grants for enterprises and housing.
Provided advice, guidance, and assistance to tribal officials, organized tribal groups and the credit committee on financial planning, available sources of financing, requirements of lenders, and procedures in making applications.
Provided assistance on procedures for organizing tribal lending programs, modifications of existing programs to more effectively meet the needs of the tribal members in the framework of changing economic conditions.
Provided guidance concerning statutory regulatory and administrative provisions regarding loans and credits. Carried out policies and procedures in collections of delinquent loans. Attended regular and special Tribal Credit Committee meetings and maintained the meeting records.
Advised the Credit Committee as to the soundness, adequacy and eligibility requirements of loan applications.
Assisted in the review of the operation of tribal enterprises and made recommendations for improvements of operations.
Suggested economic development and feasibility studies of potential business enterprises on the reservation involving the investment and utilization of assets of the Tribe and other groups.
Advised the Superintendent and tribal officials on matters pertaining to financing of Indian business enterprises, proposed legal regulatory and departmental policies and requirements having a bearing on the financing of enterprises.
Represented the Superintendent at conferences, meetings and symposiums with various agencies and Indian groups for the purpose of discussing common interests, explaining program objectives, laws and regulations of the credit program.
Handled assignments of a diverse complex nature pointed toward the development and implementation of an economic development program.

BUREAU OF INDIAN AFFAIRS, FORT APACHE AGENCY
Loan Assistant, August 1976 to July 1978

Took applications from individual tribal members for loans, prepared budget analysis and presented to the Credit Committee for approval. Processed loan applications for tribal enterprises. Analyzed three year projections of income, expense and cash flow to determine feasibility and repayment ability.
Counseled individual tribal members on financial matters.
Presented and explained credit matters to Tribal Council in English and Apache languages.
Analyzed monthly tribal enterprise's balance sheet, income and expense statements, fiscal year budgets, and annual audit reports.

WHITE MOUNTAIN APACHE TRIBE
REVOLVING CREDIT PROGRAM
Loan Trainee, September 1972 to August 1976

Received applications from individual tribal members for loans, prepared budget analysis and presented to the Loan Committee for approval. Contacted delinquent borrowers to arrange for temporary repayment schedules and disposed of collateral. Annually checked conditions of all collateral.

WHITE MOUNTAIN APACHE TRIBE
Tribal Treasurer Assistant, February 1972 to September 1972

Reconciled tribal checks monthly, typed deletion sheets for computer, kept general ledger for personnel loans, attended tribal finance committee meetings, assisted the payroll clerk, processed supplemental timesheets, processed payroll for Apache Construction, filed personnel folders, assisted in completing income tax forms for individual tribal members and processed Social Security cards.

TRAINING

- Certificate for successfully completing the Masters Certificate Series in Indian Self-Government on November 10, 1988.

- Certificate of Appreciation for services and contributions to the Indian Safety Campaign and Apache Youth Recreation.

- Received Certificates in the following training sessions:

  Roles and Responsibilities of Tribal Leaders, Educational Services Institute

  Elections, Educational Services Institute

  Tribal Enrollment, Educational Services Institute

  Introduction to PL 93-638, Indian Self Determination and Education Assistance, United States Department of Interior

Tribal Government, Educational Services Institute

P.L. 93-638 Workshop, United States Department of Interior

Office Management, Office of Personnel Management

Equal Employment Opportunity Training for Supervisors and Mangers, United Stated Department of Interior

Business Development for Profit, American Indian Management Institute

Drafting and Amending Constitutions, United States Department of Interior

- Served as Ex officio board member to the following tribal enterprises:
  Sunrise Recreation Complex Enterprise
  Apache Enterprise
  Recreation Enterprise
  Fort Apache Timber Company

  As ex officio board member, my duties included assisting the board members in monitoring, counseling, providing guidance, resolving and finalizing economic development with the social government of the Indian reservation. In all fairness, my function was to maintain the Bureau's trust responsibility to the Tribe and the United States Congress's desire for the Tribe to obtain self-sufficiency and self-government. Translating to attorneys, bankers, and business entrepreneurs to understand the local economy, attitudes, government, and the social structure into a format that these business people will understand and utilize the information to provide economic development that is sufficient and acceptable to the Indian people.

The duties that I have performed as a Loan Specialist (General) and Tribal Relations Specialist as a bureau employee and as an advocate for the Tribe the past 25 years has been an invaluable experience. These years have given me the experience and knowledge necessary to qualify me as a candidate for the office of chairman for the White Mountain Apache Tribe. Your prayers and support are appreciated.

Hearing on Improving Housing Opportunities for Native Americans
Subcommittee on Housing and Community Opportunity
Committee on Financial Services
U.S. House of Representatives
Tuba City, Arizona
May 3, 2004

RESPONSES OF JOE SHIRLEY, JR.
President of The Navajo Nation
To the Written Questions from the Committee

1. *Please elaborate on why you testified that HUD's policy decision to utilize in the IHBG formula the 2000 Census "multi-race" data -- that is, the combined 2000 Census counts for American Indian and Alaska Native ("AIAN") alone and for AIAN in combination with one or more other races -- violates NAHASDA.*

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was adopted to assist Indian tribes in providing affordable housing activi-ties to benefit "Indians" as defined in NAHASDA. "For purposes of this chapter" -- namely, all of Title 25, Chapter 43 (titled "Native American Housing Assistance and Self-Determination") of the United States Code -- NAHASDA specifically defines "Indian" as "any person who is a member of an Indian tribe." (25 U.S.C. § 4103(9)). In other words, that definition of "Indian" applies to interpretation and implementation of the statutory directives in all subchapters thereunder, including but not limited to Subchapter I on Indian Housing Block Grants (IHBG), and Subchapter III which includes -- in 25 U.S.C. § 4152 -- the requirements as to the formula for allocating IHBG funds among Indian tribes.

In enacting NAHASDA, Congress left no doubt about its intentions in this regard. At 25 U.S.C. § 4101, Congress found, for example, that --

- "the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status . . .";
- "providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status"; and
- "the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government should work not only to provide housing assis-tance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their mem-bers."

Moreover, among NAHASDA's "national objectives" identified at 25 U.S.C. § 4131(a) are:

- "to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members"; and
- "to coordinate activities to provide housing for Indian tribes and their mem-bers with Federal, State, and local activities to further economic and commu-nity development for Indian tribes and their members".

Significantly, Congress has also spoken explicitly about the manner in which these NAHASDA findings and mandates are to be carried out: "Federal assistance to meet these responsibilities should be **provided in a manner that recognizes the right of Indian self-determination and tribal self-governance.**" (25 U.S.C. § 4101).

To the contrary, without tribal input, HUD "self-determined" to use "multi-race" Census data instead of the "AIAN alone" count, which is also reported in the 2000 Cen-sus and which far more accurately reflects the "Indian" population to which NAHASDA-allocated IHBG funds are to be directed. As stated in my testimony, that unilateral policy decision "violates tribal self-governance rights to determine, via enrollment, for example, those who are members of the tribe -- the very population that NAHASDA was intended to benefit." HUD's data choice has been shown -- by HUD's own statistics -- to shift IHBG allocations away from Indian reservations and Indian areas with NAHASDA-de-fined "Indians." This is improper.

Thus, HUD should not allow decisions by the U.S. Census Bureau on how to collect and report data for the entire Federal government to dictate how HUD implements a particular law (i.e., NAHASDA) for which Congress has assigned it jurisdiction. While at the local level a tribe (or a tribally designated housing entity) has some flexibility to decide how it wishes to spend its allocated IHBG funds (including to benefit non-members of the tribe living within its Indian area), at the national level HUD must implement NAHASDA by determining allocation of overall IHBG funding among tribes in accordance with the NAHASDA definition of "Indian." To do otherwise violates not only the definition, findings and objectives specified in NAHASDA, but also ignores Congress's explicit instructions to HUD to respect long-standing and well-established principles of self-determination and self-governance.

For all of the reasons set forth in my testimony, the Census's "AIAN alone" count provides a substantially more accurate and realistic reflection of the actual population that meets the NAHASDA definition of "Indian." Accordingly, HUD must return to "AIAN alone" in order to comply with NAHASDA.

2. *Are there other reasons why you believe the use of "multi-race" Census data is inappropriate?*

First, the U.S. Census Bureau itself states (in its Census 2000 Brief on "The American Indian and Alaska Native Population: 2000") that "[t]he use of the *alone* or *in combination* population . . . does not imply that it is the preferred method of presenting or analyzing data," and that either count "can be used, depending on the purpose of the analysis." NAHASDA

requires that HUD direct funding to Indian reservations and Indian areas with NAHASDA-defined "Indians," therefore dictating that the "analysis" under NAHASDA should employ the more accurate "AIAN alone" count.

Second, as indicated in my testimony, there is simply no rational basis on which HUD can rely on the 2000 Census count using multi-race data when that count yields a 110% AIAN population growth rate when compared to the 1990 Census count. Even considering the 1990 Census's undercounting of Indians, a 110% growth rate compared to a 13% national population growth rate during the same period should cause HUD's data usage policy to come under strict scrutiny by the Congress, and should compel a reversal of that policy. Reasoned decision-making supports use of the 2000 "AIAN alone" count of 2.5 million Indians, a far more reasonable 26% growth rate when compared to the 1990 AIAN count of nearly 2 million.

3. *Why do you state that the HUD policy decision to use "multi-race" data occurred outside of the context of HUD's pending negotiated rulemaking on the IHBG formula?*

During the Formula Negotiated Rulemaking Committee meetings to consider amendments to HUD's regulations for the IHBG funding allocation formula, HUD simply announced to the Committee that it had decided to utilize multi-race data in the formula. For example, the publicly-available draft meeting minutes for the January 13 - 16, 2004 meetings state (at p. 48): "Mr. Hudson asked if HUD has made an official decision to use the multi-race data as opposed to single race whether or not the compromise is agreed upon. [Assistant Secretary] Liu stated that HUD will use multi-race data." There was no discussion, much less negotiation or the consultation with tribes that is mandated under Executive Order No. 13175 and HUD's own tribal consultation requirements.

The referenced compromise proposal was introduced during the negotiated rule-making in order to soften the adverse impact on many tribes that lost significant amounts of funding as a consequence of HUD's unilateral policy decision to use multi-race data. Conversely, HUD studies presented to the Formula Negotiated Rulemaking Committee showed how some tribes would receive increased allocations as a result of multi-race data (in comparison to the 1990 Census count and to the 2000 AIAN alone count).

As might be expected, therefore, the compromise proposal was rejected by the Committee due to failure to reach consensus (which, under the negotiated rulemaking protocols initially adopted, must be unanimous). HUD had essentially preordained that outcome when it first established the multi-race count as the new baseline for allocations. Based on rejection of that compromise, HUD, we understand, has taken the position that use of multi-race data was "considered" by the Committee because an effort to modify that policy was rejected.

Moreover, even without regard to the rulemaking, HUD is already using multi-race data in calculating the "needs" portion of the current year allocation of NAHASDA IHBG funds. Again, this unilateral policy determination has drastic implications for the Navajo Nation (e.g., the loss of almost $5 million in NAHASDA funding) and numerous other tribes whose needs have not declined but whose funding has dropped due to HUD's policy decision.

4. *If the HUD policy decision is allowed to be implemented, what will be the anticipated adverse impacts to the Navajo Nation?*

As noted above, HUD has already implemented that policy decision in connection with the current year allocations of IHBG funds. The result is that, solely as a conse-quence of HUD's use of multi-race Census data, the Navajo Housing Authority's (NHA) IHBG funding has been reduced by at least $4,700,000, the largest single reduction throughout all of Indian country.

What that means in real terms is that NHA has been compelled to abandon its present-year plans for 45 additional housing units for the Navajo people, plus a new community center. To place the need for those additional housing units in context, NHA presently estimates overall need for at least 20,000 new housing units.

5. *Can you summarize your understanding as to whether and how other Indian tribes will be hurt by the HUD policy decision?*

During the negotiated rulemaking, HUD produced various statistical studies demonstrating that many tribes -- particularly those in rural reservation areas (as opposed to more urbanized non-reservation areas) -- are being hurt by HUD's policy decision due to the shifts in IHBG allocations that result. In my testimony, I noted four other tribes in Arizona that would suffer severe reductions. But other examples abound throughout Indian country.

Thus, in addition to the Navajo Nation and NHA, the National American Indian Housing Council (representing more than 214 tribally designated housing entities) has adopted a resolution severely criticizing the procedural methodology of the Formula Negotiated Rulemaking Committee, including the manner in which HUD unilaterally implemented the use of multi-race data without required tribal consultation, and urging that the Committee take up again the funding allocation formula issues. Also, opposition to HUD's use of the Census 2000 multi-race data has been expressed specifically in resolutions by, among others, the United Native American Housing Association (representing 32 tribal housing programs in the HUD Northern Plains Region, including programs in Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), and the Council of Large Land-Based Tribes.

6. *Do you believe that the manner in which HUD made its policy decision to use "multi-race" data in the NAHASDA IHBG formula violated federal commitments for govern-ment-to-government consultation with Indian tribal governments?*

Yes. Executive Order No. 13175 (dated November 6, 2000) was issued "in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications . . . [and] to strengthen the United States government-to-government relationships with Indian tribes . . . ." Toward that end, the Executive Order identifies explicitly certain "fundamental princi-ples" that agencies must follow "in formulating or implementing policies that have tribal implications," including that the "United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination." (Section 2).

One of the mandated mechanisms for complying with those fundamental principles is that "[e]ach agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." (Section 5). There was no tribal input whatsoever on HUD's unila-teral policy decision to use multi-race data; the failure during the negotiated rulemaking to achieve unanimous consensus on an alternative to that decision does not constitute consultation on the decision itself.

Moreover, HUD's own "Government-to-Government Tribal Consultation Policy" (issued June 28, 2001, by Secretary Mel Martinez) states that "HUD will be guided by the fundamental principles set forth in . . . Executive Order 13175" and provides that "Tribal Coordination, Collaboration and Consultation applies when any proposed policies . . . or actions are identified by HUD as having a substantial direct effect on an Indian tribe." HUD's own statistical studies contain data showing that the use of multi-race data is having a substantial direct -- and adverse -- effect on many Indian tribes. By acting unilaterally, without required tribal consultation, to put into effect its multi-race policy decision, HUD violated its own tribal consultation policy, as well as the Executive Order on which it is based

U.S. House of Representatives Committee on Financial Services
Subcommittee on Housing and Community Opportunity

Field Hearing on "Improving Housing Opportunities for Native Americans"

May 3, 2004

Statement submitted on behalf of Sheila D. Harris, Ph.D.
Director, Arizona Department of Housing

The Arizona Department of Housing (Department) is responsible for establishing policies, procedures and programs to address the affordable housing issues confronting this state, including housing issues of low-income families, moderate-income families, special needs populations and decaying housing stock. Among other things, the Department provides financial, advisory, consultative, planning, training and educational assistance for the development of safe, decent and affordable housing.

The primary function of the Department is to facilitate the development of housing through financial and technical assistance. The well-trained, professional staff of the Department travel throughout the entire state working with local communities, including those on tribal land, to develop housing for people who cannot afford a place to live due to their modest incomes. The Department does not directly own, construct, operate, or rehabilitate any housing units.

In addition to State programs, the Department oversees and administers many federal housing programs from the U.S. Department of Housing and Urban Development (HUD). These include the Home Investment Partnership Program (HOME), the Community Development Block Grant (CDBG), Section 8 Housing Choice Voucher Program for Graham and Yavapai counties, Housing Opportunities for People with AIDS (HOPWA), Shelter Plus Care and Supportive Housing Programs. Communities in Maricopa and Pima Counties receive federal housing funds directly from HUD, as do the cities of Yuma and Flagstaff in the case of CDBG. The Department has a close working relationship to HUD, including Rebecca Flanagan, Phoenix Field Office Director, and Raphael Mecham, Administrator, Southwest Office of Native American Programs. Both have been a tremendous resource.

Arizona Affordable Housing Profile – Measuring Arizona's Housing Needs on Tribal Land

A recent partnership between HUD, the Arizona Housing Commission and the Department produced a groundbreaking study that, for the first time in the nation, quantifies the affordable housing gap for the State of Arizona. HOME Technical Assistance funds were used to pay for the endeavor. The *Arizona Affordable Housing Profile* was completed by Elliot D. Pollack and Company, Inc. and released by the Department in January of 2003. One of the benefits of having this study is the wealth of information and nuances in information it provides. We now have data that shows the affordability gap for every city, county and 17 of the 22 tribal nations. Arizona has the third largest amount of tribal land within its boundaries, behind Oklahoma and California. The affordability gap is defined as the difference between the number of households within each income range and the number of housing units affordable to each household.

We found that approximately 10 percent of households in Arizona (approximately 195,000 households) pay more than 30 percent of their monthly income for housing, or are living in substandard conditions. The study also shows that the housing needs on tribal lands are the most severe. Over 56 percent of the households on tribal land are living in substandard conditions or are paying more than they reasonably should for housing. The affordability gap for the Navajo Nation is approximately 78 percent or approximately 20,000 households.

Addressing the Housing Needs on Tribal Land

The Department has been involved in a number of efforts to increase the availability of decent, safe and affordable housing on tribal land. The Arizona Housing Commission *State of Housing in Arizona 2000* report recommended creating a staff position to provide tribal governments with technical assistance. The data provided in the *Arizona Affordable Housing Profile,* noting the significant housing needs on tribal land, reinforced this position. In an effort to target resources to areas with the greatest need, the Department pursued the creation of a Tribal Liaison position in 2003. A Tribal Liaison position is rare in most states. Currently, only one other state has a position dedicated solely to providing technical assistance to tribes for housing related activities. The Department determined that the position would be dedicated to providing tribes technical assistance in the development of housing. It was essential that the position have a thorough understanding of the significance of a respective tribe's cultural heritage as well as the legal relationship tribes have with states and the federal government. The Department is fortunate to have hired Michael Vaughn, a member of the Hualapai Indian Tribe, to become the Department's first Tribal Liaison. Since the implementation of our outreach efforts, the Department has seen an increased interest in and knowledge of the programs offered to tribal governments.

Low Income Housing Tax Credit Program

Arizona is one of only two states in the nation that provides a set-aside of LIHTCs for projects on tribal land. Of the 20 projects awarded Low Income Housing Tax Credits by the Department in 2003, three were located on tribal land. A fourth project will assist various urban tribal members in the Phoenix-metro area. The 2004 LIHTC application round has witnessed an additional four tribal applications. Final decisions for the 2004 awards will be made this June.

Tribal Housing Initiative

Another recent endeavor undertaken by Arizona is the creation of the Governor's Tribal Housing Initiative Task Force. The Task Force is the product of several meetings between tribal and State officials prompted by Governor Janet Napolitano, beginning with a Tribal Housing Summit in Sells, Arizona on

the Tohono O'Odham Nation Reservation in September 2003. During such meetings, tribal officials noted four major policy areas to be addressed in order to increase housing opportunities on tribal land. Four subcommittees have been formed to study these issues and make recommendations. Participants in the working groups include representatives from tribes, funding partners such as HUD, the Federal Reserve Bank of San Francisco, Fannie Mae and several Arizona banks. These groups will be working to suggest policy changes and develop strategies in their broad areas. Each of their activities is outlined below:

- **Legal Instruments and Lending Documents Subcommittee**
  This subcommittee will work on capacity building within the tribal structures and within the lending institution/banking structures through identification of a core set of legal/lending documents that can be used by all Arizona tribes and lending institutions and through individual technical assistance for tribes and lending institutions. The work of this group will improve access to funding for housing on tribal lands (not limited to individual homeownership). One particularly exciting development is the effort led by Jack Richards of the Federal Reserve Bank of San Francisco and Andrew Loubert of Washington Mutual Bank to take existing legal instruments in use by tribes to finance housing throughout the country and to meld both bank and tribal perspectives into revised templates to meet the needs of both an individual tribe's legal structure and tradition, and the needs of the Arizona banking industry on a tribe-by-tribe basis. It is believed that this will be the first time in Arizona that specific legal issues relating to access to capital will be undertaken and addressed for any interested tribe.

- **Needs Assessment Subcommittee**
  This subcommittee will work to complete housing needs assessment models for tribes to begin the planning process for securing tribal housing.

- **Tribal Infrastructure Subcommittee**
  While many tribes have severe housing needs, there may not be adequate or sufficient infrastructure in place to develop additional housing opportunities. The result of the work of this subcommittee will be specific plans/options for meeting the infrastructure needs of tribes, including water, transportation, telecommunications and economic development.

- **Financial Education Subcommittee**
  This subcommittee will review existing models for financial education to identify key components of available training and curricula allowing tribes to select models that are responsive to their local needs. In addition, this subcommittee will be developing strategies to provide financial education training and marketing.

The Governor's Tribal Housing Initiative also targets $2.5 million of State Housing Trust Fund dollars for projects in tribal communities. This Initiative will support the creation or rehabilitation of housing units on tribal land by leveraging additional resources, including private and federal. Funding was recently awarded to the White Mountain Apache Housing Authority to rehabilitate housing on the White Mountain Apache Indian Reservation, in the City of Whiteriver. The White Mountain Apache Tribe will also provide federal Native American Housing and Self Determinate Act (NAHASDA) Block Grant funding toward the project.

Conclusion

The Arizona Department of Housing views the shortage of safe, decent and affordable housing opportunities on tribal land as an issue of utmost priority and will continue to provide financial and technical assistance when prudent. Successful endeavors are occurring and we look forward to future opportunities. These successes have taken place because a broad base of stakeholders came together to address the issue, including tribes, developers (both private and non-profit), state and federal government, and lending institutions. Decreasing support from any entity can prove detrimental to our goals. To that end, I encourage Congress to continue to fund tribal housing programs such as NAHASDA, and the Section 184 and Title VI loan guarantee programs during the upcoming budget process. While utilization of programs such as Section 184 can be improved in many areas of the United States, it is important to note that approximately 20 percent of the loans originated under this program have been in Arizona. The rescindment of these valuable tools at such an important time would be a setback in our effort to address the shortage of housing on tribal land.

I thank the committee taking time to come to the great state of Arizona and for their attention to the issue of tribal housing. With your continued leadership, we can make a difference in the lives of many tribal members by providing opportunities to achieve the dream of finding a place to call home.

CAMERON CHAPTER HOUSING TESTIMONY

Cameron Chapter has approximately 680 registered voters, these are individuals that are eighteen years and older. It is an estimated that many other community members are not registered. Cameron Chapter estimates its population to be approximately 2,200, including individuals under the age of eighteen and relocates. From these numbers, it is evident that the Cameron Chapter is heavily populated. According to the 1994 update of the Western Area Regional Plan almost 40 percent of housing units with the Cameron Chapter area, houses more than one family. Now can you imagine how many families live in one home at this time? The study concludes current housing and infrastructure repair represents a 60-year backlog, with needs growing annually.

Cameron Chapter community has been requesting homes, not only from the Chapter but also from the Veteran's Office, Navajo Housing Services, Navajo Housing Authority, and Navajo/Hopi Land Commission Office. It is estimated that at least 200 individuals have requested and filed applications for housing repair assistance, but have not been assisted. An example of conditions of one home in the community: a single parent lives in a 30 year old small (15 x 20 feet) partially finished frame house with no installations, interior walls, earthen dirt floor, no running water or electricity in the home. When it rains, the roof leaks and the lumber has deteriorated so bad that the family has improvised a juniper log to brace the main support for the roofing of the house. The home is located in the most remote section of Cameron. She has been applying and reapplying for housing assistance for over twenty years now. There are many other community members, too many to mention, that are of similar situations. People have been approaching the Cameron Chapter and other housing services years and years for housing assistance to no avail. It is impossible for the Chapter to finance new homes for these families because the chapter does not generate any funds of its own.

Cameron Chapter community is one of 14 chapters designated as part of the Bennett Freeze area. New dwelling units could not be constructed on the Bennett Freeze area from 1963 to 1979. During this time the Navajo Nation and Hopi Tribe were in litigation on the ownership of the Joint Use area. Construction of homes were frozen, even minor repairs to existing structures was restricted by both the Navajo and Hopi

Tribes. Since 1979, small areas of the Bennett Freeze have been lifted. The construction freeze and the influx of relocates from the District Three area has put increase demand on the Cameron Chapter's limited funds to meet the construction needs of Cameron. Many of the Cameron community live within these boundaries, making it more difficult for the other housing services to assist these families. Cameron Chapter has been heavily impacted by the Navajo-Hopi Land Dispute and the Bennett Freeze by displacing families in dilapidated homes and homelessness. Additions to these situations, local people have to endure living in homes they could not repair or build new houses on their home-sites and also faced with limited resources and income.

Not only Cameron Chapter is faced with these housing situations, all parts of the Navajo reservation are burden. Funding for housing and home repairs is very erratic, and many times no funds are available. In an effort to meet the tremendous need of housing and/or home repairs, more funding needs to be addressed toward these needs. There are a high number of unemployment rate, not only in Cameron, but reservation wide. Due to this rate, community members are going off the reservation to find work, but yet they come home to find that there is still no work to be found. The majority of the Cameron Chapter community members are low income families, and many of them of fixed income, especially our elderly. Cameron Chapter is a very small community, with only a one restaurant, one mini-market, three gas stations, a Arts and Craft Store, and one laundry-mat. As a small community, there is no work available, and resources are very hard to come by. People have to go out of the community to find assistance.

If Cameron Chapter and other housing services could get housing assistance funds, it would surely ease life hardship for our families that have been adversely been affected by the lack of funds and red tapes imposed. By providing homes to our families, it would provide an improved environment specifically for the children in the family. A physical home that is provided by a modern house has significantly positive affect on the self-image of children as well as adults. Therefore, it can contribute to the hope and aspirations of an individual/family.

ice
Indigenous Community Enterprises
2717 N. Steves Blvd. Suite 8
Flagstaff, AZ 86004
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(928) 522-6163 (fax)

Written Testimony of
Indigenous Community Enterprises

Submitted to the Sub-committee on Housing and Community Opportunity
Committee on Financial Services
United States House of Representatives

on

IMPROVING HOUSING OPPORTUNITIES FOR NATIVE AMERICANS

Field hearings held in Tuba City, Navajo Nation (AZ)

Indigenous Community Enterprises (ICE) is a non-profit organization in its fourth year of providing services to indigenous communities. Since its inception, ICE has been working with small diameter timber to meet the housing shortage existing on the Navajo reservation. ICE has established a manufacturing plant on the reservation that produces one-of-a-kind Hogan kits that are volunteer friendly and over time will prove to be an affordable solution. Through an extensive collaborative approach, ICE has constructed six Elder Hogan homes; two industrial use hogans; and two ceremonial hogans.

The six Elder Hogan homes have been primarily funded through ICE's Native American Housing and Self Determination Act (NAHASDA) subgrants provided by Navajo Housing Authority, the Tribally Designated Housing Entity of the Navajo Nation. ICE's experience in working with reservation communities has led us to develop our preferred financing package that requires the elder and or families to provide at least 10% of the financing of our average Hogan ($6,250). ICE has worked with two Navajo elders to obtain a partial mortgage through the Navajo Partnership for Housing (another major ICE partner). As well, ICE works with the elder and or family to apply for a forgivable USDA loan. In several cases, the local Navajo community governments (known as Chapters) provide some financial assistance (between $1,500 to $10,000) toward the Elder Hogan home.

ICE incorporates the hands-on learning experience of local high school vocational programs in the actual construction of the homes. As well, ICE has developed a weekend community build program that incorporates traditional extended family labor in making the home possible. This volunteer labor adds time to the construction process, but it lowers the construction costs.

MAJOR BARRIERS & POSSIBLE SOLUTIONS:

Financial Education/Literacy

As ICE is a grassroots organization, our small staff spends approximately three days a week traveling to reservation sites within the tri-state (AZ, NM and UT) jurisdiction of the Navajo Nation to work directly with elders and their families. The major impediment for Navajo families is their lack of basic financial literacy. ICE developed an affordable full log hogan home at an average of $77 per square foot but could not find any families or elders qualified for a conventional mortgage.

This common impediment made ICE realize that families are not yet ready for full conventional mortgages. ICE needs to approach the problem in a more holistic manner including basic financial education. Navajo residents must move from merely renting homes from Navajo Housing Authority to homeownership. Homeownership is an asset that is part of ICE's Individual Development Account (IDA) savings program. As part of IDA savings program, individuals must complete a six-part financial literacy training with their family members that includes an in-depth analysis of understanding credit reports. ICE obtains matching funds for the savings and currently matches at a rate of 2:1 up to $1,000. Although after a year the $1,500 earned is not enough for a home it is a beginning. ICE intends to continue the program to encourage families to save and improve or establish their credit for a home purchase in two to five years.

Trust Land Status

The Navajo reservation is held in trust by the United States Department of the Interior which has caused lenders to shy away from lending to Navajo people who intend to build on their Bureau of Indian Affairs approved homesite leases. Homesite leases are not treated as true equity, i.e. as property. The lenders have some incentives such as various loan guarantees. However, most lenders still have not taken advantage of these guarantees. The Navajo Partnership for Housing (NPH) convenes a housing forum every two years. In 2003, NPH sponsored such a forum with financial institutions to help housing providers such as ICE in understand the lenders' position on lending to reservation borrowers. It was evident that most are not familiar with lending on trust land. More education is needed to get at least two or three institutions interested in serving this market.

Again, ICE advocates for education in this area. The financial institutions must be mandated to educate themselves on the issue and begin to serve this market. Otherwise, the situation will continue and large pockets of Native American citizens of the United States will continue to be excluded from the American dream of homeownership. It is definitely a slow process but one – if done thoroughly – can easily be replicated.

Homesite Leasing

This process is one that completely bogs down homeownership on reservation lands. It takes an average of 18 months to process the paperwork to obtain a homesite lease. The duplicative process of both the Navajo Nation and BIA issuing the leases is time consuming and very difficult to navigate.

ICE has been providing workshops on the process and intends to submit "packaged" homesite leases to determine if that process is more efficient. ICE will be submitting all paperwork for 8-10 leases and will track all at the same time. In a unique situation, the Navajo Nation has secured federal legislation, the Navajo Trust Land Leasing Act of 2000 that allows the Navajo Nation primacy over trust land leasing. To date, the Navajo Nation has only developed regulations for business site leases and is working to have the regulations approved by both the Navajo Nation and the Department of the Interior. The same type of Navajo Nation authority can be extended to homesite leases under the 2000 Act. Should the Navajo Nation get its homesite leasing regulations approved by the Department of the Interior, Navajo people who are seeking homesite leases will likely receive a better turn around time as the Department of the Interior/BIA approval process will be removed.

CONCLUSION

ICE extends its appreciation to the United States House of Representatives, the Committee on Financial Services and the Sub-committee on Housing and Community Opportunity for their interest in ICE's programs. ICE extends its thanks to Congressman Renzi, Congressman Matheson, Chairman Ney and Ranking Member Maxine Waters for their support and for visiting our Elder Hogan site in Tuba City, Navajo Nation (AZ).

Written Testimony of

Richard F. Kontz
Executive Director
Navajo Partnership for Housing, Inc.
St. Michaels, Arizona

*** Final ***

Improving Housing Opportunities on the Navajo Nation and in other Indian Nations

Submitted to the U.S. House of Representatives
Committee on Financial Services
Subcommittee on Housing and
Community Opportunity

May 3, 2004

Good afternoon, members of the subcommittee. My name is Richard F. Kontz and I am the Executive Director of the Navajo Partnership for Housing, Inc. [NPH] I have been there for over five years after spending close to 20 years in the Navajo Nation government in various high level executive and financial management postitions.

I look forward to sharing with you today about how the NPH has taken steps to help Navajo families obtain affordable Homeownership on the Navajo Navajo. Basically, how we help Navajo families build, buy or improve their home through their own self-effort and with the aid of various sources of "private financing" coupled with government programs.

Navajo Partnership for Housing, Inc. (NPH)

The Navajo Partnership for Housing, Inc., a 501 (c) non-profit located on the Navajo Nation, has explored numerous ways to make "private mortgage" lending on trust properties possible and has developed nationally recognized homebuyer education and training programs to prepare Navajo families for private homeownership.

NPH was founded in 1996 through the joint efforts of the Navajo Nation government and the Neighborhood Reinvestment Corporation. The NPH is also a member of the NeighborWorks network -- founded and supported by Neighborhood Reinvestment Corporation. The NPH employs 17 staff and operates with a budget of over $900,000 with offices located in St. Michaels, Arizona, Shiprock, New Mexico and Chinle, Arizona.

I don't need to tell you, there is an overwhelming need for affordable housing on the Navajo Nation and even with the current level of federal funding this housing need can not be adequately met without access to "private mortgage and interim construction financing".

Remember many Native Americans typically have very low incomes, which average about half that of the rest of the United States. Of the over 180,000 residents of the Navajo Nation, the median income barely exceeds $20,000 per year. One third of Native Americans live in poverty. They are more likely to die of disease or alcoholism than other Americans, and they are victims of violent crimes at a rate greater than three times the national average.

Native Americans living on reservations suffer severe housing distress. Even middle- and upper-income Native Americans on reservations are confronted by substandard housing, which is aggravated by a lack of access to "private" home mortgages and infrastructure and industry needed to build new homes.

But, I have come to realize there many Navajos [and Native Americans on other Indian Nations] who want to "earn the own way" to homeownership.

When a Navajo resident is considering "private" homeownership, he or she will most often seek guidance and assistance from the NPH. This assistance includes homebuyer education and counseling, technical assistance in navigating through the bureaucracy of

the Navajo Nation government and the Bureau of Indian Affairs as the "Federal Trustee" for Navajo trust lands. NPH also provides access to various forms of down-payment and closing cost assistance.

Since 1998, NPH has been involved in close to 200 first mortgages and second mortgages, construction loans and grants worth $6.8 million. Most of these loans were government direct and guaranteed loans, and half of the loans used the Section 504 program through the USDA Rural Housing Service to fund small rehabilitation projects.

A Member of the NeighborWorks Network

The Navajo Partnership for Housing, Inc. is a member of the NeighborWorks network – founded and supported by Neighborhood Reinvestment Corporation. The NRC strengthens communities and transforms lives across America by supporting innovative local partnerships of residents, businesses and government, collectively known as the NeighborWorks network and by advancing broader community development goals. I have attached to my written statement a brochure that outlines the Training Institute that Neighborhood Reinvestment offers that focuses on Native American Housing.

The NeighborWorks system integrates public and private support, leveraging federal funding to attract private resources. Private investors have viewed the NeighborWorks network as an increasingly sound investment. NRC also acts a critical financing vehicle to NeighborWorks organizations in the form of equity capital grants and expendable operating grants for organizations like the Navajo Partnership for Housing, Inc.

Loan recipients via the NeighborWorks system are typically underserved families. Seventy-one percent of loans made through the NW system are made to very low- or low-income households, 53 percent to minority headed households and 43 percent to female-headed households.

If it were not for the network and it's financial, training and technical support the Navajo Partnership for Housing, Inc. would not exist today. I give many thanks to them and to Congress for making it possible for the Neighborhood Reinvestment Corporation and the NW network to exist.

Mortgage lending on "Trust properties" for Homeownership – Issues and concerns

#1 is the Land Status

90% of the land within the Navajo Nation is held in trust for the tribe by the Bureau of Indian Affairs. The BIA acts as the "trustee" for the Navajo people on all land transactions. Mortgages can be issued only when the tribe approves a lease, which allows for leasehold improvements. Many banks are anxious about this land arrangement and will not become involved unless the land is held as fee simple private property, of which there is very little on the Navajo Nation. What NPH does is act as a "interface" between the Lender and the Governmental bureaucracy in helping lenders to

provide "private mortgage" capital to Navajo families in need of housing. NPH also helps prepare the future Navajo home owners for the "lengthy process" of obtaining homeownership on their respective Home site leases through private financing. This is a lengthy process for obtaining a home site lease and obtaining all the required Tribal and Federal (BIA) reviews and approval. Also, because we are dealing with Federal Trust lands, numerous other environmental and archaeological reviews and approvals are required which add another layer of time consuming activity, which tires out both lenders and potential home buyers.

#2 – Recording and Timely retrieval of Title Status Reports

In order to perfect financing arrangements, recording and having timely access to Title Status reports is crucial. On the Navajo Nation this is one area where the time it takes to record and to obtain Title Status Reports is clearly an "inhibitor" of active private sector mortgage financing activity. In the mortgage world.... Time really is Money. For example, I have seen Navajo families who had to pay 3-6 month extra interest on interim construction loans, while waiting for the recording and receipt of Title Status Reports to close the permanent first mortgage. This is unfair to the families. On the outside [off-reservation] this happens in a week or two at the most.

#3 – Lack of Public Access to land ownership documents

When a person wants to determine ownership on a vacant lot or who owns a particular piece of property (a house), we can go to City planning, or county records. NO SO on the Navajo Nation. Such access to records is restricted to the actual owner only. The BIA considers this information "private and confidential". Here again, this does not facilitate the "buying and selling" of real estate. For instance, I am aware that NPH had identified 21 vacant lots in a Navajo sub-division. Upon inquiry with BIA, NPH was told they could not release the ownership information for NPH to contact them. NPH was told they had to get the Owners "written permission" in order for BIA to release the information to NPH on "who the owner" was.... Sound crazy, well how can NPH find the owner to get written permission when NPH doesn't know who the owner is.... If NPH knew who the owner was, they wouldn't be asking for ownership information in the first place of the BIA.

#4 - Secondary Market's Recognition of Lease.

Current mortgage lending entities and secondary market lenders accept and recognize the standard trust land home site lease documents for title and financing purposes; however, Fannie Mae has not accepted subdivision master lease lot assignments for title and financing purposes. Unfortunately, this problem has not been resolved. After numerous discussions between the Navajo Nation Department of Justice, NPH Loan staff and Fannie Mae representatives, the Navajo Nation Department of Justice preliminarily stated that language within the master lease referencing Federal Housing Administration and Veterans Administration loans was not meant to be limiting in nature, and this solution would be acceptable to Fannie Mae. However, Navajo Elections resulted in Administration changeover and several Attorneys who understood the issue left the Navajo Department of Justice. The current Administration has not shown much interest

in dealing with private mortgage or land related issues, and the legal opinion has not yet been written as of this testimony.

#5 - Title Insurance Restrictions in New Mexico:

A problem has arisen concerning a residential mortgage on a "residential lease" located within a Navajo Indian allotment on the New Mexico portion of the reservation. Specifically, in order to close both the interim construction loan and the USDA Rural Development 502 Guaranteed permanent, an acceptable title insurance policy must be obtained. The title insurance company has declined to issue a title commitment based upon the belief that the Title Status Report may not identify all of the heirs of the allotment, and because of possible title conflicts with mineral leases. This would also affect any conventional first mortgage, which requires title insurance. An interim solution was being sought by attempting to have first mortgages quaranteed through the HUD section 184 program. Again, a letter was requested of the Navajo Department of Justice by HUD indicating that the Navajo Nation has no involvement with the residential lease on Individual Indian Allotments. As of the date of this hearing no action has been taken on this matter.

#6 - Lack of Capacity in Tribal Government and the Bureau of Indian Affairs:

Both agencies, in my opinion need additional staff and resources to deal with the requirements of timely processing of real estate transaction, mortgage and land related documents. Many times, when one staff member is "on vacation", nothing gets done until the person returns from vacation. What is not realized is that in an active "buy and sell" real estate market, time is money and processing of real estate transaction document is crucial to the process.

Conclusion and Recommendations

I would like to thank the Subcommittee for the opportunity to testify about the challenges facing Navajo families in obtaining homeownership on trust properties within the Navajo Nation.

In summary I would make the following recommendations:

#1 – The process to "free" land for home-site leases and to obtain all the clearance required needs to be "streamlined" so the every thing can happened with a 2-3 month period.

#2 – The recording and timely retrieval of Title Status report needs to be reduced drastically to at least a 3 to 5 week timeframe at most. Privatization of this function should be highly considered for efficiency reasons.

#3 – Public Access to land ownership documents needs to be allowed. Whatever policy or regulatory change is needed, the BIA should address that matter.

#4 – Encumbrance of lot assignments for financing purposes within approved Navajo Nation Master leases for housing sub-division should become a standard provision. To address the problem outlined earlier in my testimony, the Navajo Government administration and attorneys should do what ever is necessary to help their people.

#5 – Regarding the lack of Title Insurance on Indian Allotments... Here, again, the Navajo Nation government, it's attorney and all other interested and affected parties need to sit a the same table with the single "mission and objective" of resolving this problem.... NPH has five clients who cannot move forward toward home ownership until this issue is resolved.

6 – Last, both governmental entities involved in the review and approval of real estate transactions, mortgage documents and land related documents need to be adequately staff and adequate budgeted resources given to them to get the job done.

AGAIN, I thank you for you time and interest in helping Native Americans to obtain true homeownership in Indian County.

Sincerely,

Richard F. Kontz
NAVAJO PARTNERSHIP FOR HOUSING, INC.
P.O. Box 1370
St. Michaels, AZ 86511
PH 928-810-3112
email: rkontz@citlink.net
www.navajopartnershipforhousing.org

ATTACHMENT: NEIGHBORHOOD REINVESTMENT TRAINING INSTITUTE BROCHURE

- End of Testimony -

NeighborWorks

Neighborhood Reinvestment Corporation

Native American Community Development Training Program

NeighborWorks® Training Institute

May 3-7, 2004

Minneapolis, MN

Hilton Minneapolis

Sponsored by:

WELLS FARGO

WELLS FARGO HOUSING FOUNDATION

Don't miss this learning opportunity! Training courses are specifically tailored to the professional development needs of Native American community development practitioners and others working to serve Indian Country.

Scholarships available for tuition, travel and shared lodging!

NeighborWorks® Training Institute

The NeighborWorks Training Institute

thanks Wells Fargo Home Mortgage for providing a generous grant through its Wells Fargo Housing Foundation that makes the Native American Community Development Training Program possible. We are also grateful to our other distinguished partners. Their contributions allow us to provide the highest quality community development training to an increasing number of community-based organizations.

WELLS FARGO

WELLS FARGO HOUSING FOUNDATION

The generous grant provided by the Wells Fargo Housing Foundation has allowed Neighborhood Reinvestment Corporation to develop the courses, hire faculty, provide full scholarships, and offer follow-up technical assistance for the Native American Community Development Training Program.

Join your colleagues and experience the best community development education available!

The five-day Native American Community Development Training Program is offered at the NeighborWorks® Training Institute in Minneapolis, MN, May 3-7, 2004.

Who should attend?

- Tribal leaders
- Native nonprofit staff members working in the community development field, including the areas of housing, home ownership and economic development
- Tribal government officials
- Tribal designated housing entities
- Tribal enterprises
- Nonprofit developers working in Native communities
- Private-sector partners doing business in Native communities
- Government officials whose work focuses on Native American community development

Highlights

- Five days of learning and education taught by a faculty of seasoned practitioners with extensive experience working in Native American community development:
  - Native American Homebuyer Education Methods: Training the Trainer – 5-day course
  - Two 2-day courses and one 1-day course in community development
- Scholarship funds will pay for tuition, travel and shared lodging
- A special welcome reception for participants attending the Native American Community Development Training Program
- Opportunity to acquire a certificate of Professional Recognition in Native Homebuyer Education
- Many helpful "how to" ideas and fresh solutions
- Great opportunity to network with practitioners and leaders serving Indian Country
- Six hours of follow-up technical assistance and counseling for all participants completing the coursework

Full Scholarships Available!

Native American Community Development Training Program, NeighborWorks® Training Institute

If you are interested in the program but do not plan to submit the scholarship registration form now, please e-mail your interest to us at *NatAmerTrng@chpinternational.com* or call us toll free at (877) 398-5245.

Native American Community Development Training Program
NeighborWorks® Training Institute

Training Courses

Participants can select either of two options:

Option I:

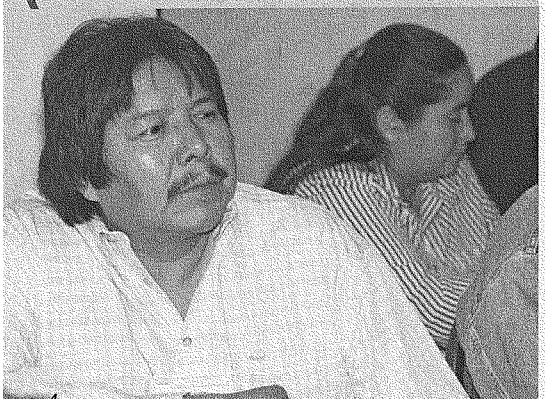
Native Homebuyer Education Methods: Training the Trainer
(5 days)

Option II:

Leveraging Resources for Housing and Other Development Projects in Native Communities
(2 days)

Developing and Implementing a Financial Education Program in Indian Country
(1 day)

Building the Organizational Capacity of Native Nonprofits
(2 days)



Option I

If you choose Option I, you should plan to attend the five days of this course.

Course No. NA210:

Native Homebuyer Education Methods: Training the Trainer
(5-day course)

Monday–Friday
8:30 a.m. to 4 p.m.
Cielo Gibson and Roberta Drake

Learn how to deliver a comprehensive homebuyer education program based on the curriculum that the National Congress of American Indians, Neighborhood Reinvestment's National Campaign for Home Ownership, and their partners designed to help educate prospective Native homebuyers about how to become satisfied homeowners. Learn to use the best materials and methods to train homebuyers to build, buy or renovate a home on Indian land, get a mortgage loan, improve their budget and credit profiles, and maintain their home and finances after purchase. Participants interested in obtaining a certificate of Professional Recognition in Homebuyer Education must take an exam upon completion of the course.

This course was developed with contributions from:

- *The Enterprise Foundation*
- *Fannie Mae Foundation*
- *Ford Foundation*
- *Green Point Community Development Corporation*
- *U.S. Department of Housing and Urban Development*
- *Wells Fargo Housing Foundation*

Full Scholarships Available!

Option II

Scholarship recipients who choose Option II are required to take three courses as outlined under this option. You are encouraged to take all three Native American-specific courses listed under this option. However, if you strongly believe that another course being offered at the NeighborWorks® Training Institute (www.nw.org/training) better serves your learning needs, you may substitute ***one*** *course in place of a third Native American-specific course.*

Course No. NA130:

Leveraging Resources for Housing and Other Development Projects in Native Communities
(2 days)
Monday–Tuesday
8:30 a.m. to 4 p.m.
Rural Community Assistance Corporation

This "how to" course is designed to empower community developers to obtain financing to make projects happen on tribal lands. It will focus on teaching participants how to leverage existing resources in ways that enable them to bring in the remaining necessary dollars to make dream projects become a reality. Students will learn how to blend public and private resources, as well as how to layer financing in order to fill gaps. Participants will also learn how to identify and use nontraditional resources, such as in-kind donations and pro bono services, to satisfy grant and lending requirements. This course will be taught by practitioners with extensive experience in structuring community development deals in Native American communities.

This course is sponsored by the Wells Fargo Housing Foundation

Course No. NA140:

Developing and Implementing a Financial Education Program in Indian Country (1 day)
Wednesday
8:30 a.m. to 4 p.m.
Barbara Roloff and Vickie Oldman

This course is designed for participants who are interested in beginning or are already implementing a financial education program targeted to Native communities. The course will begin by establishing the importance of financial education in Indian Country, and then quickly progress into the specifics of how to develop and run a program. Students will learn about the variety of financial literacy curriculum options available, how to target an audience, define measurable outcomes, identify resources and partners, and offer ongoing education programs, like postpurchase homebuyer education or credit counseling. Learn from dynamic instructors with extensive experience in Native American financial education training. This course is not a train-the-trainer course.

This course is sponsored by the Wells Fargo Housing Foundation

Course No. NA150:

Building the Organizational Capacity of Native Nonprofits
(2 days)
Thursday–Friday
8:30 a.m. to 4 p.m.
Leslie Newman and Pinky Clifford

A survey of organizational capacity building, this course will help participants gain an understanding of the components of healthy nonprofit organizations operating in Native communities. Participants will explore the importance of board development, strategic planning, program management, building staff capacity, developing partnerships, resource development and management, and sound financial management. Taught by seasoned instructors with direct experience managing successful Native American nonprofits, this course will emphasize the benefits of organizational strength and the heavy costs suffered by weak nonprofits.

This course is sponsored by the Wells Fargo Housing Foundation

Training-At-A-Glance

	Monday - Tuesday May 3-4	*Wednesday May 5*	*Thursday - Friday May 6-7*
Option I	**Native Homebuyer Education Methods: Training the Trainer (5 days)**		
Option II	**Leveraging Resources for Housing and Other Development Projects in Native Communities**	**Developing and Implementing a Financial Education Program in Indian Country**	**Building the Organizational Capacity of Native Nonprofits**

Don't Miss These Special Activities

Monday, May 3
4:30 p.m. – 6 p.m.
Welcome Reception

Tuesday, May 4
11:30 a.m. – 1 p.m.
Author's Luncheon*
featuring Edward G. Goetz, author of *Clearing the Way: Deconcentrating the Poor in Urban America*

Wednesday, May 5
11:30 a.m. – 1 p.m.
Symposium Luncheon: Changing Minds, Building Communities*
5 p.m. – 6:30 p.m.
Networking Reception
featuring live entertainment and refreshments

** A limited number of tickets will be available on a first-come, first-served basis at the Training Institute registration booth.*

Native American Community Development Training Program

Scholarship and Registration Information

SCHOLARSHIPS

Wells Fargo Housing Foundation is making scholarship funds available to eligible participants to attend this training. Scholarship recipients will receive tuition, travel and shared lodging for the five-day Native American Community Development Training Program. *(Federal government officials are not eligible for a scholarship, but may attend this training if space is available and pay the tuition rate of $175 per day. Call (800) 438-5547 to inquire about registration.)*

Scholarship applicants will be selected to attend the Native American Community Development Training Program to be held at the NeighborWorks® Training Institute in Minneapolis May 3-7, 2004. Applicants not selected to receive a scholarship will be offered an opportunity to register and attend the NeighborWorks® Training Institute, **only** if space is available in these courses, or other selected courses, at the tuition rate of $175 per day.

How to Apply

Please complete the scholarship registration form, along with a one-page essay describing (a) the mission of your organization; (b) how the training will increase your effectiveness in improving housing, economic development or community revitalization in Indian Country; and (c) how a scholarship will enhance your ability to attend.

Mail or fax your scholarship registration form and essay to:
Mae Heins
Scholarship and Registration Office
CHP International, Inc.
1040 North Blvd. Suite 220
Oak Park, IL 60301
Fax: (708) 848-3191

You will receive a postcard acknowledging the receipt of your application. **The completed scholarship registration form with your essay must be received by March 8, 2004.** All applicants will receive written notification of the status of their applications by March 29, 2004.

Registration

Review and select the courses you wish to take and indicate your first and second choice on the scholarship registration form.

Option I: Those who choose Option I should plan to attend the five full days of training for the Native Homebuyer Education course.

Option II: Scholarship recipients who choose Option II are required to take three courses as outlined under this option. You are encouraged to take all three Native American-specific courses listed under Option II. However, if you strongly believe that another course being offered at the NeighborWorks® Training Institute (www.nw.org/training) better serves your learning needs, you may substitute **one** course in place of a third Native American-specific course.

To receive a brochure of the available courses at the NeighborWorks® Training Institute, call (800) 438-5547, or log on to www.nw.org/training to download the information.

Complete the scholarship registration form, attach your essay, and send it to the address on the form. **Incomplete applications will not be considered.** All individuals selected to receive a scholarship will automatically be enrolled to attend the Native American Community Development Training Program and will receive a packet of information regarding travel and lodging arrangements and more details on the five-day training agenda.

Special Needs

If you have special needs addressed by the Americans with Disabilities Act, we will request that information if you are selected for a scholarship and registered for attendance.

Attendance and Certificate Policy

Courses start promptly at 8:30 a.m. and conclude at 4 p.m. Certificates of completion are awarded only to participants who complete 100 percent of the course.

Professional Certificates and Continuing Education Units

You can earn a certificate of Professional Recognition in homebuyer education. Continuing education units for all courses are available upon request. For more information, please contact the NeighborWorks® Training Institute, 1325 G Street, NW, Suite 800, Washington, DC 20005, (800) 438-5547, (202) 220-2454 or nti@nw.org

Accommodations

The Native American Community Development Training Program is part of the NeighborWorks® Training Institute and takes place at the Hilton Minneapolis, 1001 Marquette Avenue, Minneapolis, MN 55403-2440, (612) 376-1000. Shared room accommodations are included as part of the scholarship award for all recipients.

QUESTIONS?

We would be happy to answer any of your questions – please call our Scholarship and Registration Office at CHP International, Inc. toll free at (877) 398-6245 or e-mail: *NatAmerTrng@chpinternational.com.*

Cancellation Policy

You must provide notice of cancellation at least three weeks (April 12, 2004) prior to the event in order to receive a tuition refund, if applicable. If a cancellation notice is received less than five business days prior to the event, or if you do not complete your coursework, no refund or credit voucher will be issued. NeighborWorks® Training Institute reserves the right to cancel any course at any time. If your course is canceled, you may choose another course or request a tuition refund, if applicable. Other than refunding your tuition in the event that the course you chose is canceled, Neighborhood Reinvestment is not liable to you for any other damages, including without limitation any obligation to provide a refund for any travel and/or lodging costs associated with attending any NeighborWorks® Training Institute or other direct, indirect or consequential damages.

If you are interested in the program but do not plan to submit the scholarship registration form now, please e-mail your interest to us at *NatAmerTrng@chpinternational.com* or call us toll free at (877) 398-6245.

Native American Community Development Training Program Scholarship Registration Form

May 3-7, 2004 – Minneapolis, MN – Hilton Minneapolis

Mr./Ms.

Title

Organization

Address

City

State Zip Code

Phone (day)

Fax

E-mail address

☐ Check here if you do NOT wish to receive e-mail from us regarding Training Institute events and programs.

Reminder: Scholarship Registration Deadline – March 8, 2004

Please attach to this form your one-page essay describing (a) the mission of your organization; (b) how the training will increase your effectiveness in improving housing, economic development or community revitalization in Indian Country; and (c) how a scholarship will enhance your ability to attend.

Mail or fax this form and your one-page essay to:
Mae Heins
Scholarship and Registration Office
CHP International, Inc.
1040 North Blvd., Suite 220
Oak Park, IL 60301
Fax: (708) 848-3191

Questions? Please contact our Registration and Scholarship Office at CHP International, Inc. toll free at (877) 398-6245; e-mail: NatAmerTrng@chpinternational.com

NeighborWorks®

Which of the following best describes your organization?

- ☐ federal/state/local government
- ☐ financial institution
- ☐ for-profit organization
- ☐ Native CDFI
- ☐ Native community-based developer
- ☐ Native nonprofit
- ☐ Non-Native nonprofit
- ☐ tribal designated housing entity (TDHE)
- ☐ tribal government
- ☐ other_____

Which of the following best describes your position?

- ☐ board chair
- ☐ economic development staff
- ☐ homebuyer education counselor
- ☐ housing development staff
- ☐ loan officer
- ☐ board member
- ☐ nonprofit organization manager
- ☐ tribal enterprise staff
- ☐ tribal leader
- ☐ other_____

How long have you been in your current position?

☐ less than 1 year ☐ 1-2 years ☐ 3-4 years ☐ 5 or more years

Courses Requested:

Option I: If you choose Option I, you should plan to attend the five days of training for the Native Homebuyer Education course.

Option II: Scholarship recipients who choose Option II are required to take three courses as outlined under this option. You are encouraged to take all three Native American-specific courses listed under Option II. However, if you strongly believe that another course being offered at the NeighborWorks® Training Institute (www.nw.org/training) better serves your learning needs, you may substitute **one** course in place of a third Native American-specific course.

Please indicate your first and second choices.

If you chose Option II, specify the three courses you would like to take (use course letters and numbers). Remember, two of the three courses must be part of Option II in the Native American Community Development Training Program.

First Choice	*Mon,Tue*	*Wed*	*Thu,Fri*
☐ Option I			
☐ Option II	_____	_____	_____

Second Choice	*Mon,Tue*	*Wed*	*Thu,Fri*
☐ Option I			
☐ Option II	_____	_____	_____

If I am not selected to receive a scholarship, I am still interested in registering for other courses available at the NeighborWorks® Training Institute. ☐ yes ☐ no

If yes, we will contact you to provide you information for registration.

Neighborhood Reinvestment Corporation shares the name of recipients of scholarships (the name of the recipient's organization, the organization's address, e-mail address, telephone number and fax number) with the entity that has funded the scholarship. By completing an application for a scholarship, you are granting us permission to share that information with the person or entity that may fund your scholarship, if you are selected.

Catalog No. NA-MN04NTI

Native American Community Development Training Program

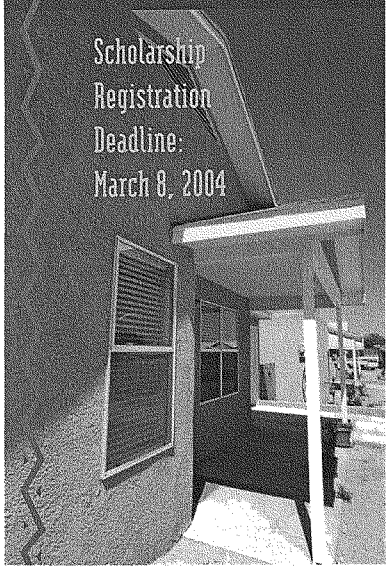
Presented by the
Neighborhood Reinvestment Corporation

and sponsored by the
WELLS FARGO HOUSING FOUNDATION
on behalf of
WELLS FARGO HOME MORTGAGE, INC.

May 3-7, 2004

Minneapolis, MN
Hilton Minneapolis

Scholarship Registration Deadline: March 8, 2004



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Building on more than 25 years of experience, the Neighborhood Reinvestment Corporation works with residents, government and business leaders to develop strong partnerships that revitalize America's urban and rural communities and make housing affordable. These partnership organizations, comprising the NeighborWorks® network, are active in more 2,500 communities.

NeighborWorks®

House Financial Services Committee

Housing and Community Opportunity Subcommittee

"Improving Housing Opportunities for Native Americans"

Field Hearing

May 3, 2004
Tuba City, Arizona

Testimony of

Rosebud Sioux Tribe, Rosebud, South Dakota,
Sicangu Wicoti Awanyakape (SWA Corporation), Rosebud, South Dakota
and
Lower Brule Housing Authority, Lower Brule, South Dakota.

We would first like to express our appreciation to Chairman Ney and Vice-Chairman Green for the opportunity to submit testimony at this hearing.

SUPPORT FOR ELIMINATION OF USING MULTI-RACE CENSUS DATA IN THE NAHASDA BLOCK GRANT FORMULA

Due to a recent policy decision by the Department of Housing and Urban Development, tribes in the Northern Plains Region (encompassing South and North Dakota, Nebraska, Montana, Colorado, Wyoming and Utah) recently incurred a $3.9 million drop in their block grant funding under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101, et seq). The Rosebud Sioux Tribe alone lost almost $800,000 of these vitally important low-income housing funds. HUD decided to use data from the 2000 U.S. Census that included population figures based on persons who are American Indian or Alaska Native (AIAN) and one or more other races. We are strongly opposed to HUD's decision and concur with and endorse the testimony submitted to this Subcommittee by the Navajo Nation on this issue (copy attached).

Although the loss of funding is an important concern, we also must emphasize that this type of unilateral action on behalf of HUD and other agencies has the disastrous effect of undermining both our native culture and sovereign right to self-governance. Tribes who receive increases in federal program funding based on the number of self-identified multi-race individuals living within their jurisdiction are faced with the unwelcome choice of diluting their membership standards to maintain adequate funding levels or suffer the dire consequences of severely diminished funding to provide crucial government services to a smaller population of single-race AIAN individuals. We hope that this Subcommittee will seriously consider taking action to reverse this unilateral administrative decision that threatens Indian tribes' survival as unique governments and cultures.

In closing, we appreciate this opportunity to address the Subcommittee on this critical Indian housing issue and we express our further appreciation for the Subcommittee's decision to hold this hearing in Indian country.

* * *

Attachment (three pages)

The Navajo Nation and the Navajo Housing Authority are deeply concerned that **a recent HUD policy decision will cause an estimated reduction in excess of $5,000,000 annually in IHBG grants to the Navajo Housing Authority** and large reductions in the allocations of many other tribes. The HUD policy decision, made without the required consultation with Indian tribes, subverts the letter, intent and spirit of NAHASDA, and will prevent the Navajo Nation (as well as numerous other tribal governments on Indian reservations throughout the country) from serving the vital housing needs of our people.

This policy decision -- announced by HUD during the pending "negotiated rulemaking" to change the IHBG funding formula, but decided by HUD independently and outside of the rulemaking process -- mandates the use of so-called "multi-race" Census data to determine what constitutes the "Indian" population for the purpose of the NAHASDA IHBG formula. HUD's decision to use multi-race data will severely skew the results of that formula, causing deep reductions in the housing allocations of some tribes while inflating the allocations of other tribes based on individuals who designated multiple races -- including "American Indian and Alaska Native" (AIAN) -- but who would not be considered "Indians" under NAHASDA. Let me briefly explain.

For the first time, the 2000 Census allowed those responding to questions on race and ethnicity to check one or more of the listed race categories. By contrast, the 1990 Census required respondents to check only a single category to indicate their race. If you compare the number of those who identified themselves as AIAN in 1990 to those in 2000 who identified as AIAN alone and as AIAN together with one or more other races, the results readily illustrate how the use of multi-race designations can lead to anomalous and ultimately harmful results.

In 1990, almost 2 million people identified themselves as AIAN only. Yet, in 2000, over 4 million identified themselves either as AIAN alone or as AIAN in combination with one or more other races -- which would amount to an incredible 110% AIAN population growth rate (compared to the U.S. population growth rate of only 13%)! The number of those who identified themselves as AIAN alone in 2000 was 2.5 million -- a figure much more realistic and closer to the population growth rate nationally. Moreover, studies based upon a 2001 Census survey also have shown that a substantial majority of those who checked boxes in the 2000 Census to the effect that they were AIAN **and** also belonged to another race would have selected a non-AIAN designation if they had been asked to list only one race. Yet, despite the fact that the AIAN alone data is much more reflective of the true Indian population under the NAHASDA definition of Indian (which I will discuss in a moment), HUD has now chosen to use the multi-race data in the formula.

HUD's decision will have a devastating impact by reducing funding allocations for Indian housing on many reservations, severely hurting Indian tribes and Indians

whose housing needs have not declined. When the multi-race data is plugged into the IHBG formula, the resulting allocations are shifted in favor of areas with populations that self identify as AIAN in combination with other races (which tend to be more urbanized, non-reservation areas) and to the detriment of those areas with populations that self identify as AIAN alone (which tend to be reservation lands).

HUD's own preliminary estimates reveal that **the Navajo Nation will suffer the largest single cut in funding -- more than $5 million** -- that will be taken away from Navajo families desperately in need of adequate housing. Other tribes located right here in Arizona also will face severe reductions in their allocations. For example, the Tohono O'Odham tribe will lose $743,937 -- an 11% reduction; the Isleta Pueblo will lose $209,175 -- an 18% reduction; the Salt River Pima will lose $738,073 -- a 24% reduction; and the Chochiti will lose $111,820 -- a 35% reduction. These are just a few examples of tribes that will lose ground in their efforts to provide adequate housing -- not because of any measurable change in the needs of their people, but instead because of a change by the Census Bureau in the way it counts individuals and HUD's counterproductive insistence on utilizing a multi-race Census count that bears little relation to reality in Indian country. Congress must not allow this untenable and unfair result to stand.

HUD's decision to use multi-race data also runs counter to the letter, intent and spirit of NAHASDA, which clearly defines "Indian" as "any person who is a member of an Indian tribe." HUD's policy violates tribal self-governance rights to determine, via enrollment, for example, those who are members of the tribe -- the very population that NAHASDA was intended to benefit. Congress itself wrote in NAHASDA that "providing affordable homes in safe and healthy environment is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status" and that "Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities . . ." (emphasis added).

Moreover, for purposes of determining "the need of the Indian tribes" in the allocation formula, Congress allowed for the use of "[o]ther objectively measurable conditions as the Secretary and the Indian tribes may specify" (emphasis added). We note that earlier versions of the NAHASDA bill did not include the words "and the Indian tribes," so Congress plainly directed that Indian tribes were to be an equal party in the designation of such objectively measurable conditions, and not simply the recipient of HUD dictates that substantially affect tribes' rights.

In short, Mr. Chairman, HUD's decision to dictate to Indian tribes who should be counted as Indians violates NAHASDA (which, after all, is the Native American Housing and Self-Determination Act) and ignores the unique government-to-government relationship between the Federal government and Indian tribes, the Federal government's trust responsibility to Indian tribes and their members, and the rights of Indian people to self-determination and self-governance.

The Navajo Nation and the Navajo Housing Authority respectfully request that the Subcommittee, in the exercise of its oversight responsibilities, act expeditiously to review -- and correct -- this misguided HUD decision that ignores federal law and will hurt the very people whom HUD is charged by Congress to protect. We strongly believe that tribal enrollment figures provide the best indication of who are Indians under, and entitled to the benefits of, NAHASDA. Alternatively, the Navajo Nation and the Navajo Housing Authority believe that use of the 2000 Census AIAN alone count -- rather than the multi-race count -- not only allows HUD to use updated Census data, but also, as explained previously, more closely reflects the actual count of "Indians" under the NAHASDA definition and funding allocations that are in accord with the Congressional intent and purposes of NAHASDA.

INTER/111355.1

Salt River Community Housing Division

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
10,005 East Osborn Road
Scottsdale, Arizona 85256

RESOLUTION NUMBER: SR-2320-04

WHEREAS, the Salt River Pima-Maricopa Indian Community ("Community") Council has the authority under Art. VII Sec. 1(c) (4) and (5) of the Salt River Pima-Maricopa Indian Community Constitution to protect the public health, and to provide for the public welfare of the Salt River Pima-Maricopa Indian Community; and

WHEREAS, the SRPMIC Council, through SRPMIC Resolution SRO-232-97, as codified in Section 17-21 of the SRPMIC Code of Ordinances, established the Salt River Community Housing Division ("SRCHD") and provides for the appointment of the SRCHD Board of Directors; and,

WHEREAS, Article II, Sec. 17-21, S(6) and (8), empowers the SRCHD with the authority to conduct the general business of the Salt River Community Housing Division including serving as the recipient of NAHASDA funding on behalf of the SRPMIC; and,

WHEREAS, Over 100 homes within the SRPMIC lack plumbing, an additional 100 homes lack adequate kitchen facilities, and 276 homes lack telephone service and through a recent Community-wide study, it has been determined that there is a need for at least 1,800 new housing units in the Community; and,

WHEREAS, The United States Department of Housing and Urban Development (HUD) policy decision to use the Census 2000 multi-race American Indian and Alaskan Natives count for the formula for distribution of the Indian Housing Block Grant Funds (IHBG) to Indian tribes and their recipients has had a significant adverse impact on the distribution tribal housing funding; and,

WHEREAS, The new formula for distribution of funds significantly changes the scope of housing services to be provided to American Indians by diverting the Native American Housing Assistance and Self Determination Act (NAHASDA) funding from reservation-based areas, to more developed urban Indian population bases which is contrary to the NAHASDA mandates to promote tribal self determination, self governance, and the government-to-government relationship; and,

WHEREAS, The 2000 Census count creates further harm to the Community as the 2000 Census inaccurately identifies the Community tribal enrollment at 6,405 when in fact the Community certifies its membership as 7,628 individuals. This inaccurate count translates to a loss of $600,000 in NAHASDA funds to the Community in FY 2004; and,

WHEREAS, The SRPMIC Council is opposed to the FY 2005 the Administration's latest HUD budget which proposes a reduction of $7.1 million for NAHASDA funding. The FY 2005 proposed budget also requests reductions in the Section 184 Mortgage program at a crucial time when tribes are beginning to realize success in mortgage finance. This reduction combined with proposed rescissions like the $21 million set-aside for Title VI, negatively impact tribes and their ability to provide adequate housing to their members; and,

NOW THEREFORE BE IT RESOLVED the SRPMIC Council has read and determines it is in the best interest of the Salt River Pima-Maricopa Indian Community that the SRPMIC Council endorse and attaches the SRCHD's position paper (attachment A, incorporated by reference) and also hereby attaches and incorporates by reference, the body and intent of the SRCHD Resolution Number HD-06-04 (attachment B), duly approved at the February 10, 2004 SRCHD Board meeting.

NOW THEREFORE BE IT FURTHER RESOLVED the SRPMIC Council supports the use of accurate tribally verified enrolled membership data that directly correlates to the amount of funding that tribes receive from HUD for the Indian Housing Block Grant program.

BE IT FURTHER RESOLVED the SRPMIC Council requests an appropriation of at least $700 million in FY 2005 with systematic increases to NAHASDA funding to reach a minimum of $1 billion in the years to come as referenced in Attachment A.

BE IT FURTHER RESOLVED the SRPMIC Council recognizes the unique government-to-government relationship between the United States and tribes that requires an increased level of consultation to ensure housing needs are being adequately addressed through federal appropriations and the continuation of successful housing programs.

BE IT FINALLY RESOLVED that the President and Vice President and the SRCHD Board of Directors and Executive Director are authorized and directed to take all reasonable or necessary steps to carry out the intent of this Resolution.

C_E_R_T_I_F_I_C_A_T_I_O_N

Pursuant to the authority contained in Article VII, Section 1 (c) (5) and (d) (2) (5) of the Constitution of the Salt River Pima-Maricopa Indian Community, ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing resolution was adopted this 17th day of March, 2004, at a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 7 members were present by a vote of 5 for; 0 opposed; 2 abstentions; and 2 excused.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY COUNCIL

Joni M. Ramos, President

ATTEST:

Erica Harvier, Secretary

Salt River
Community Housing Division
10,177 East Osborn Road, Scottsdale, Arizona 85256
Telephone (480) 850-8980 FAX (480) 850-8997

RESOLUTION NUMBER HD-06-04

Requesting to Congress the Adoption of Certain Legislative Initiatives and Appropriations of Adequate Funds for Indian Housing Programs

WHEREAS:

1. Pursuant to SRO-232-97, Part A, section 6 and 8, the Housing Board of Directors' (Board), is appointed by the Salt River Pima-Maricopa Indian Community (SRPMIC) and is empowered with the authority to conduct the general business of the Salt River Community Housing Division (SRCHD); and

2. On October 26, 1996, the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), Public Law 104-330, was enacted into law and provides housing assistance to Indian nations that recognizes the rights of Indian self-determination and self-government with a single block grant program; and

3. By Salt River Ordinance (SRO)-232-97, the Salt River Pima-Maricopa Indian Community (SRPMIC), as a Federally recognized tribe, through Section 17-21 of the SRPMIC Code of Ordinances, established the SRCHD as the Tribally Designated Housing Entity (TDHE) and the recipient of NAHASDA Funding on behalf of the Salt River Pima-Maricopa Indian Community; and

4. Annual Congressional appropriations continue to be inadequate to meeting existing and future housing needs of Indian communities. An appropriation in the amount of $1 billion is necessary to only begin to address the chronic housing need existing in Indian country; and

5. HUD recently announced at the final session of the Negotiated Rulemaking Committee meeting on the new NAHASDA allocation formula it was their policy decision to use the multi-race American Indian and Alaskan Natives as a component for the allocation formula. The use of this and other impermissible factors will likely result in a reduction in annual allocations to the Salt River Pima-Maricopa Indian Community; and

6. The Board of Directors in consultation with the SRCHD management has prepared a position statement and related materials, attached hereto, for submission to Congressional representatives which sets forth in considerable detail the Board of Directors' concerns.

NOW THEREFORE, BE IT RESOLVED:

1. The Salt River Community Housing Division Board of Directors' hereby approves the position statement attached hereto that urges support by the Congressional representatives for various legislative concerns and recommends an appropriations of $1 billion for the NAHASDA block grant program and other related matters..

2. The Housing Board of Directors' of the Salt River Community Housing Division hereby directs the Executive Director to take all steps reasonably necessary to and in aid of carrying out the purpose and intent of this resolution.

C_E_R_T_I_F_I_C_A_T_I_O_N

Director Hayes, moved that the foregoing Resolution Number HD-06-04 be adopted and this was seconded by Director Hidalgo.

Same was passed by the following vote:

AYES:	:	6
NAYES	:	0
ABSENTIONS	:	0
ABSENT	:	1

The Secretary, thereupon, declared said motion carried and said Resolution Number HD-06-04 was adopted this 10th day of February 2004.

Patricia Rush, Board Chair
Housing Board of Directors

ATTEST:

April Begay, Secretary/Treasurer
Housing Board of Directors

SRPMIC

OFFICE OF THE STAFF ATTORNEY

APPROVED AS TO FORM:

Salt River
Community Housing Division
10,177 East Osborn Road, Scottsdale, Arizona 85256
Telephone (480) 850-8980 FAX (480) 850-8997

SALT RIVER PIMA MARICOPA INDIAN COMMUNITY

Community Housing Division Board of Directors
POSITION STATEMENT ON HOUSING ISSUES

The Salt River Community Housing Division (SRCHD) is among one of the largest Indian housing programs in the United States. It was created in 1963 as a public body of the Salt River Pima-Maricopa Indian Community (Community). 2004 marks the 41st year of operation with over 400 housing units under management by the SRCHD. These housing units consist of public rental, mutual help units, low income tax credits, and home loans. The Salt River Pima-Maricopa Indian Community Council appoints a Board of Directors that governs the SRCHD. The Board is responsible for the general operations of the SRCHD pursuant to Salt River Ordinance Chapter 17, Article II.

The Salt River Indian Reservation (Reservation) consists of 53,675 acres of land that borders the cities of Tempe, Scottsdale, Fountain Hills, Mesa, and the Ft. McDowell Yavapai Nation, all of which are located in Maricopa County, Arizona. According to the 2000 Census count, the Community has a population of 6,405 enrolled Community members with 950 members living off the Reservation. This count is contradictory to the Community's census data that confirms that there are 7,628 enrolled members.

According to the 2000 Census, the population that makes up the labor force (2,041 members), the unemployment rate is 9.5%. In actuality, the Community estimates that the unemployment rate maybe closer to 37.5%. According to the Census data, which this Community recognizes as inadequate and inaccurate, the average Household income for families in the Community is $24,975. While we feel this is an overstatement, the fact remains that, as presented, the average family income for the Community is almost $20,000 less then the income averages for Maricopa County and Arizona State as a whole.

Educational attainment figures for the Community's residents demonstrate that only 65% have a high school diploma, which is considered accurate data. It must also be noted that there are twice as many female heads of household with children in the Community than in the State of Arizona or Maricopa County. These statistics are taken from the most current United States Census data in combination with the Community's enrollment database.

Despite the lack of accurate data, the fact remains that the Community's statistics for unemployment and the number of female head of households are considerably higher than the national average and the statistics for average household income and education attainment are significantly lower than the national average. The 2000 Census undercount of enrollment members creates a significant problem in the distribution of housing funds that has also been identified as one of the issues listed below.

The statistics related to affordable housing for the Community's O'Odham and Pipaash peoples is equally distressing. Currently, over 100 homes lack plumbing, an additional 100 homes lack adequate kitchen facilities, and 276 homes lack telephone service. Through a recent Community-wide study, it has been determined that there is a need for at least 1,800 new housing units on the Reservation. Although, the Community has what is considered to be a progressive tribal government, with many development opportunities, the lack of basic needs including housing, education and employment stunts the collective efforts of the Community to improve the quality of lives for its members.

In relation to the need for housing in the Community, there are several legislative remedies that can serve to advance the progressive development opportunities that the Community is implementing while meeting the basic housing needs of the Community. Listed below are critical legislative and policy issues related to housing that need the attention and support of all Congressional Delegations, but especially from Arizona delegation:

1. **HUD Policy to use the 2000 Census Multi-Race American Indian and Alaskan Natives count for the purpose Indian Housing Block Grant Distribution.**

   The Community requests the intervention by Congress to halt or prohibit the United States Department of Housing and Urban Development's (HUD) use of the 2000 census multi-race American Indian and Alaskan Natives data count in the Native American Housing Assistance and Self-Determination Act (NAHASDA) funds allocation formula. We request this because of the inappropriateness of the data and the under-count of tribal members in many tribal nations, but especially for this Community. American Indian tribes need to be allowed the use of tribally verified enrolled membership counts as ratified by each Indian tribe through its governing body. In the case of this Community, the use of tribally verified enrolled membership data would increase the Community's population count by 1,499 members. This membership data is directly correlated to the amount of funding the Community receives from HUD for the Indian Housing Block Grant program, as explained later in this document.

   When Congress enacted NAHASDA in 1996, the legislation recognized and acknowledged the unique government-to-government relationship between the United States and Indian tribes and the corresponding unique trust responsibility established and created by the United States and tribes through treaties, statues, executive orders and federal policy statements. This special and unique relationship was established by the United States for the protection and preservation of Indian

tribes. In addition, by supporting and passing NAHASDA, Congress affirmed that the long-standing federal policy supporting Indian tribal self-determination and self-sufficiency is the best means for Indian tribal governments to improve their housing conditions and socioeconomic status.

In December 2003, during the seventh and final Negotiated Rulemaking session with HUD on the development of a new NAHASDA allocation formula, HUD publicly announced to Indian tribes that it was their policy decision to use the Census 2000 multi-race American Indian and Alaskan Natives count for the formula distribution of the Indian Housing Block Grant Funds (IHBG) to Indian tribes and their recipients. This decision to use the self-identified multi-race count significantly changed the scope of housing services to be provided to American Indians by diverting NAHASDA funding from reservation-based areas to more developed urban Indian population bases thus shifting funds from areas where the funds are most needed – specifically reservation lands - to areas where increased numbers of self-identified American Indian populations are unsubstantiated. For example, the 2000 Census data gathered allowed an individual to self-identify themselves as an American Indian or Alaskan Native without any means or mechanism to verify the enrollment status of such persons by the Census gatherer or by the tribal government where affiliation is being claimed.

The NAHASDA statutory definition of the term Indian tribe is "federally recognized tribe or a State recognized tribe". The term 'Indian' means any person who is a member of an Indian tribe. Throughout NAHASDA reference is made to providing housing assistance to an **Indian tribe** or a **member of a tribe**. Contrary to NAHASDA, the recent HUD policy decision distributes HUD funds to areas where persons self-identify themselves as mixed-race descent that includes American Indian and Alaskan Natives. The 2000 Census count related that the Community has 6,405 tribal enrolled members when in fact the Community certifies its membership as 7,628 individuals. **This translates to a loss of over $600,000 to the Community in FY' 2004.** These critical HUD funds are now being redirected to other areas such as the HUD service areas of Chicago, Portland and Oklahoma.

Allowing persons to self-identify themselves as an American Indian or Alaskan Native without verification of enrollment not only serves to divert funds from reservation areas but it also seriously undermines a fundamental attribute of tribal self-determination and tribal self-governance. The authority of Indian tribes to determine who is a member is an internal exercise of its inherent and sovereign authority. This right of Indian tribes has long been recognized as paramount and fundamental to their existence. In essence, the HUD policy established an additional federal position and policy that individuals may merely check off a box to be identified as an American Indian or Alaskan Native without allowing Indian tribes to determine their membership status.

This HUD policy decision contradicts the direction and guidance Congress provided in the legislative history and terms of NAHASDA itself when it was enacted in 1996. The policy decision to utilize the Census 2000 data by HUD has a significant negative impact on the distribution of NAHASDA funds and

will adversely affect Indian Nations across the country and reverses five years of progress toward addressing the dire housing needs for Native communities at large and this Community specifically.

2. **APPROPRIATIONS.**

The Community also requests that Congress approve an appropriation in the minimum amount of $700 million for NAHASDA funding in FY 2005 and supports a steady increases in future years. The problems associated with providing adequate housing on Indian reservations will not disappear or be otherwise improve until such time as adequate funding can be consistently made available.

The Community appreciates the minimal increases in the NAHASDA appropriation during FY 2004, but maintains that it simply is not enough to allow communities such as Salt River to progress in meeting its housing needs. This Community understands and respects the conflicting priorities of the United States' war on terrorism, the need for increased domestic security and addressing the affects of the economic recession. We realize that these efforts have been necessary focal areas for Congress and the Administration; however, the needs of Indian Nations must also be a priority. Indian Nations are distinct from other ethnic minorities because the relationship between the United States and Indian Nations is based on historical treaty obligations to provide health, education, and welfare to American Indian people in exchange for large tracts of ancestral lands and to be moved, sometimes with force, to reservations.

In FY 2004, the Administration proposed $647 million for the NAHASDA block grant program. That proposal was a 10% decrease from prior years' appropriations while the overall HUD budget reflected an increase of 1.3%. It must be noted that the general Public Housing Program for non-tribal programs has seen increased funding each year, while the Indian housing funds have remained flat. When inflation is considered, this continued funding level has resulted in a net decrease in funding for housing programs overall and for Indian housing programs specifically. The FY 2005 HUD budget is no exception to this alarming funding trend as submitted by the Administration. In example, the Administration's latest budget proposes an additional reduction of $7.1 million for NAHASDA funding.

Although significant progress has been made in facilitating construction, rehabilitation and development of 25,000 housing units in Indian country since 1997, current estimates indicate an immediate need for an additional 200,000 units. The Administration's current budget request will not foster such development, but actually reverses the Community's progress in meeting its housing needs.

The census data, while erroneous at best, does demonstrate an immediate need for additional housing units for this Community. The need is going to rapidly increase as the census count, while inaccurate in most areas, reflects the median age of the Community's population at age 28.3 years old. Each year about 600 young Community members join the housing market. The current rate of construction does not and cannot keep pace with the need for new housing as well as the need to improve or expand housing under already existing unmet needs. Even at the current

level of appropriations, the Community is not been able to meet the housing needs for its members. Functioning under a decreased appropriation, combined with erroneous census data that further suppresses funding availability, and Congressional rescissions does not bode well for meeting any additional housing needs on this Community, but will ensure that the Community fall farther behind in trying to provide adequate housing for its members.

Native Americans across the country continue to rely heavily on federal housing support due to inadequate access to private and other public financing on reservations that most non-Indian communities take for granted. Those financial resources and institutions that form the backbone of private financing for housing construction in America are simply absent in Indian country. The obstacles associated with securing significant private investment, creating a functioning housing market, building essential infrastructure and addressing the dire conditions faced in many Indian communities translates into having to use federal funds to meet the greatest of needs for housing resources. **Federal appropriations must be adequate to effectively address housing needs in Indian country. For these reasons, the Community requests an appropriation of at least $700 million in FY 2005 with systematic increases to NAHASDA funding to reach a minimum of $1 billion in the years to come.**

3. **TRIBAL CONSULTATION**. The current HUD tribal consultation practice does not allow for tribal input into the annual federal budget development process.

According to Executive Order No. 13175, dated November 6, 2000 all federal agencies are required to properly consult and coordinate with Indian tribal governments on all issues affecting Indian peoples. HUD's "Tribal Government-to-Government Consultation Policy" requires HUD to seek tribal input and this tribal input is required to be a necessary and integral part of HUD's decision-making process. Engaging tribal input and consultation appropriately in the decision-making process by HUD and the Administration on each fiscal year's funding allocation would strengthen the HUD consultation policy as intended by Executive Order No. 13175.

Currently, each budget decision is made in isolation from tribes and that impacts tribes, such as in the FY 2005 proposed budget request, there has been a budget reduction to be assumed by tribes. For example, the Section 184 Mortgage program is earmarked for reductions just when tribes are beginning to realize success in mortgage finance. This reduction combined with proposed rescissions like the $21 million set-aside for Title VI, negatively impact tribes and their ability to provide relevant programming to their members. Tribes have not had adequate input into these programs, nor has the Congress had the opportunity to hear from tribes regarding these issues.

The unique government-to-government relationship between the United States and tribes requires an increased level of consultation to ensure housing needs are being adequately addressed through federal appropriations and the continuation of successful programs.

4. **IHS P.L. 86-121 Programming.** Pursuant to NAHASDA, HUD no longer earmarks a portion of housing funds to pay for infrastructure development directly to the Indian Health Services (IHS). This change, perhaps an oversight in the NAHASDA legislation, puts additional strain on tribes when they are trying to actually building houses to relieve overcrowded, unsafe, and unsanitary conditions and also build or repair inadequate infrastructure. Repair of existing infrastructure and building new and expanded infrastructure issues are also critical to the lives of tribal members. Also pursuant to NAHASDA, IHS is no longer required to review the feasibility of proposed home sites for water and sewer availability and viability. This has put an additional and incredible strain on water and sewer infrastructure on the Reservation. IHS is also precluded from using IHS funding to pay for the construction cost of providing sanitation to serve new homes built under NAHASDA programs.

   Currently, approximately 60% of the Community's land base is without access to water, sewer or electricity. It is inexcusable to have a community bordered by the cities of Scottsdale, Mesa, Tempe, and Fountain Hills where availability of infrastructure is taken for granted, that lacks the basic necessities required to develop adequate housing. Within the Community, current housing programs use a variety of funding sources in order to leverage minimal IHS funding and support. By forcing tribes to make a distinction among high priority programs to provide infrastructure causes unnecessary accounting, reporting, and engineering burdens and creates an additional bureaucracy that diminishes the ability of the Community to build adequate housing facilities for its members.

   The Community has been fortunate in its partnership with the IHS Phoenix Area Environmental Services Division to be able to create infrastructure in a planned and intentional approach on this Community. In other tribal nations, it is our understanding that IHS insists on the execution of Memoranda of Understanding that provides funding **from tribes to the IHS** to pay for administrative and engineering expenses that would normally be an expense to the IHS. The Indian Healthcare Improvement Reauthorization Act (IHCIA) is scheduled for Congressional action this year and the Community, while supporting the legislation generally, requests changes in the IHCIA language. **Language needs to be included that will allow each individual tribe to prioritize its funding source and to address its unique need with IHS in the same manner as this Community has been fortunate enough to accomplish in direct aid to its housing needs.**

5. **Bureau of Indian Affairs Housing Improvement Program.** Funding for the BIA's Housing Improvement Program remains inadequate. Further, it has become more difficult for tribal members generally, and within this Community specifically, to qualify for HIP housing. The reason? BIA's regulations are totally inadequate to address today's income levels as well as the levels of need for HIP funding on reservations. HIP regulations have not changed since the middle 1980s. Income levels have changed in concert with the ups and downs of the economy. **BIA needs to be directed, under Negotiated Rulemaking authorities, to assess its HIP regulations and policies to make them more relevant to today's Indian population.**

In conclusion, the Salt River Pima-Maricopa Indian Community appreciates your support of the Community in addressing critical issues that have hindered economic and housing development opportunities within this Community and for all of Indian country.

If you need further information or clarification, please contact either Marilyn Watson, SRCHD Executive Director at (480) 850-8032 or Jacob Moore, SRPMIC Special Assistant on Congressional & Legislative Affairs at (480) 850-8137.

House Financial Services Committee

Housing and Community Opportunity Subcommittee

"Improving Housing Opportunities for Native Americans"

Field Hearing

May 3, 2004
Tuba City, Arizona

Testimony of

Karuk Tribe Housing Authority (CA)
Choctaw Nation Housing Authority (OK)
Spirit Lake Housing Authority (ND)
Lower Brule Housing Authority (SD)
Trenton Indian Housing Authority (ND)
Goshute Housing Authority (UT)
Housing Authority of the Village of Winnebago (NE)

The tribally designated housing entities (TDHEs) identified above hereby submit their testimony to the Subcommittee and express their appreciation to Chairman Ney and Vice-Chairman Green for the opportunity to do so.

SUPPORT FOR AMENDMENTS TO NAHASDA CONTAINED IN S. 1802

The "Native American Housing Advancement Act of 2003," Senate Bill 1802, Co-sponsored by Senators Johnson and Enzi, is currently pending in the U.S. Senate. This bill would make significant and necessary amendments to the Native American Housing Assistance and Self Determination Act (NAHASDA). We would like to request the support of all the members of the Committee and Subcommittee for the House version of this bill which we hope will find sponsorship in the House and be introduced during this legislative session.

The bill addresses several important areas, including:

A. Allowing Tribes to Choose Between Fair Market Rent or Use 30% of Adjusted Income.

The current NAHASDA statute requires that tribes and tribally designated housing entities (TDHEs) limit the rents and homebuyer payments they charge to program participants to no more that thirty-percent of the family's adjusted income. The proposed amendment would allow tribes and TDHEs to choose to continue this system or to charge program participants no more than the "fair market rents" published annually by HUD for every region of the country.

A federal funding requirement that mandates how much a block grant beneficiary can charge a tenant is inconsistent with NAHASDA and principles of self-determination.

The NAHASDA statute expresses the principles that NAHASDA is a program based on self-determination and block grant funding. Tribes and their TDHEs are expected to identify their individual housing needs, prioritize their funding and develop their own programs. Imposing a 30% of adjusted income limit on rents disrupts the flexibility and self-determination that is a basic principle of the program.

The decision in 1996 to transplant this requirement from the U.S. Housing Act of 1937 to NAHASDA was done arbitrarily without much thought. There in fact was no tribal support for it and specific objections about this requirement have been raised from the time the bill was first considered. Tribes, regional tribal housing associations, and the National American Indian Housing Council (NAIHC) have consistently and unanimously complained about this rule. For the past three years they have set it out as one of the primary amendments that they would like to see made to NAHASDA.

Requiring tribes and TDHEs to use the 30% Rule results in mandating periodic re-certification of incomes. If tribes had the option to alternatively use fair market rents as a ceiling, within two to four years a significant number of tribes would develop alternative rent and payment formulas which would not require the re-certification of incomes. This would save tribes considerable money and the tribes could apply those savings in more productive activities such

as constructing more units, improving routine maintenance or adequately funding counseling programs. A recent HUD study confirms that the 30% Rule is difficult and cumbersome to enforce and in other programs surveyed there was 56% error rate in administering the rule.* Another recent survey conducted by the tribes themselves shows that TDHEs with 1937 Housing Act units would save on average 62% of their housing occupancy staff costs if they could elect to use fair market rents as a cap and replace the current re-certification with either a flat rent schedule or some other payment formula that was less difficult to apply.

Since NAHASDA was passed and the 30% Rule became a ceiling and not the mandated method for establishing rents, tribes and TDHEs have already attempted to restructure their rental and homebuyer payment requirements. However, they are still encumbered by the Rule because it remains an upper limit on these payments. Some tribes have gone ahead and established rent schedules or fixed rents. Those schedules have been developed based on quality, size and in some cases, location of units. In most cases, these fixed rents are all substantially below the fair market rents in those communities. Tribes want their members to pay a minimum fixed rent because they believe it is a healthy practice for tenants in housing to have to contribute something towards their housing and because they have determined what rents they want their tenants to pay.

Interestingly, tribes have already converted to fixed rents even though they still cannot escape the 30% ceiling that is required by NAHASDA. However, they continue to be burdened with the expensive, time-consuming, and inaccurate process of prescribed annual family income re-certifications to provide confirmation that they are in compliance with the 30% ceiling requirement. Tribes are handcuffed and are unable to truly exercise the flexibility and local self-determination envisioned by NAHASDA until

* "Quality Control for Rental Assistance Determinations," Final Report, HUD Contract No. C-OPC-21179 (June 20, 2001). Figure cited represents the combined errors in both overcharging and under-charging rents.

they are given the right to eliminate or select a more flexible and reasonable alternative to the 30% Rule.

Congress need not be concerned that tribes will take advantage of their own members or that they will impose unfair and unreasonable rents. To the contrary, because they are local governments and understand local circumstances and what is best for their people, the tribes know what rents to charge and what ceilings to impose.

B. Allow Tribes and TDHEs to Establish Reserve Accounts.

NAHASDA, as applied by HUD, allows no opportunity for Tribes and TDHEs to establish a reasonable and necessary amount of reserves for efficient operation of housing programs or projects.

This reasoning is based on the statutory requirements that any funds drawn down from the IHBG must be spent within three (3) days.

However, Section 203(b) of NAHASDA provides that a recipient "shall, using amounts of any grant received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing." Clearly, the original intent of Congress was to require that the Tribes/TDHEs have sufficient reserve amounts for efficient operation, proper maintenance of its units and completion of its projects.

It is unreasonable and an affront to Indian self-determination to have to rely on HUD to be the holder of the reserves for the tribes and TDHEs. Specific project and management reserve accounts are a prudent and necessary business and housing practices. Such accounts are a necessity to manage the fluctuating demands of project maintenance costs and are also often absolutely required by outside lenders and investors in order to obtain financing and funding for development or rehabilitation projects.

The suggested amendment would allow tribes and TDHEs the opportunity to establish, manage and administer reasonable reserve accounts to insure the professional operation of the necessary housing programs. This suggested amendment would put tribes and TDHEs on an equal plane with other housing programs.

C. Amending the USDA Rural Development Housing Program to Allow for Preferences in Admission and Occupancy for Native Americans When Projects are Developed by a Tribe or TDHE.

Under the requirements of NAHASDA, members of Indian tribes are given preference for admission to and occupancy in housing programs funded by the Department of Housing & Urban Development (HUD). The same preferences do not exist under the current statute for the U.S. Department of Agriculture's Rural Development Program.

A major purpose of NAHASDA is to allow tribes to leverage funds with other federal and private monies. The U.S. Department of Agriculture has been a major funding source for funding housing development for Indian tribes.

Because of the unique political status of tribal governments, tribal preference for federal programs, including housing, is not a race issue, it is an exercise of sovereignty.

In order to allow NAHASDA and USDA funds to be effectively combined to meet the severe housing needs of Indian tribes, the Housing Act of 1949, 42 U.S.C. 1471 et seq., should be amended to clearly state that the preference for members of Indian tribes in admission to and occupancy of tribal housing units does not violate the Civil Rights Act of 1964, 42 U.S.C. 2000d.

D. Reinstating Tribal Eligibility for Youthbuild Grants.

NAHASDA terminated available assistance for the Youthbuild Program for Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas by amending the Cranston-Gonzales National Affordable Housing Act, 42 U.S.C. §12899(f). See Section 504 of NAHASDA. This program provided important funds for youth activities and projects in Indian Country. Such programs included drug-elimination and youth sports teams and events.

The proposed amendment reverses this elimination and reinstates Indian tribes, tribally designated housing entities, or other agencies that primarily serve Indians within the definition of "Applicant" so that these entities are eligible for Youthbuild grants.

REVISION OF NAHASDA MEDIAN INCOME DEFINITION

In prescribing eligibility for NAHASDA program activities, the NAHASDA statute prescribes that only low-income Indian families are eligible for assistance (25 U.S.C. 4131 (b)). The statue also defines low-income family and Median Income as follows (25 U.S.C. 4131(b) and 4102 (13)):

> (13) LOW-INCOME FAMILY — The term "low-income family" means a family whose income does not exceed 80% of the median income for the area, as determined by the Secretary ...
>
> (14) MEDIAN INCOME — The term "median income" means, with respect to an area that is an Indian area, the greater of –
>
> > (A) the median income for the Indian area, which the Secretary shall determine; or

(B) the median income for the United States

The NAHASDA regulations also define Median Iincome for Indian areas as follows (24 CFR 1000.10):

Median income for an Indian area is the greater of:

(1) The median income for the counties, previous counties or their equivalent in which the area is located; or

(2) The median income for the United States

However, the current NAHASDA allocation formula regulations establish a conflicting definition of median income. Several low income components are based on what is described as Formula Median Income (§1000.324 (d), (e) and (f)) and they are defined as follows (§1000.302):

Formula Median Income. For purposes of the formula median income is determined in accordance with section 567 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437a, note).

The conflict arises because the Housing and Community Development Act of 1987 (42 U.S.C. 1437a note), which was intended to cover distinctly different programs such as public housing and rural development, defines Median Income as follows:

Median Area Income. Section 567 of Pub. L. 100-242 provided that: "For purposes of calculating the median income for any area that is not within a metropolitan statistical area...the Secretary of Housing and Urban

> Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher: (1) the median income of the county in which the area is located or (2) the median income of the entire non-metropolitan area of the state."

This means that currently there is a significant difference between the statutory definition of Median Income and the definition of Formula Medina Income contained in the regulations. Tribes and TDHEs are obligated to use the larger of county median income or the national median income for eligibility. However, for funding tribes in the non-metropolitan statistical areas, the median income standard is the larger of the county or the entire non-metropolitan area of the state. Therefore, currently eligibility and formula criteria in the regulations use different median income definitions.

In addition to conflicting standards, another consequence of the current Formula Median Iincome definition is that tribes in states with lower income populations are being unfairly penalized. They are not getting their rightful share of low-income populations funding because the NAHASDA Indian Housing Block Grant formula does not allow the use of the national median income option.

The current HUD-NAHASDA Formula Negotiated Rulemaking Committee has been unable to resolve or correct this inconsistency because some representatives on the Committee are concerned that such a change and is resulting impact on block grants allocated under the formula would cause a reduction in their funding. We therefore seek an amendment to the statute that clarifies that, for all purposes of NAHASDA, including block grant allocations and formula median income, Median Income shall be defined as currently set forth in the statute.

SUPPORT FOR INCREASED APPROPRIATIONS FOR NAHASDA

The TDHEs support increasing appropriations for NAHASDA to raise the total funding to at least one billion dollars over the course of the next four years.

To date, annual appropriations have not even kept pace with the standard rate of inflation. The "flat lining" effect of these limited appropriations has made it increasingly difficult for us to meet our low-income housing needs and fulfill the important goals set forth in the NAHASDA statute to provide decent, safe and affordable housing to Indian areas.

The TDHEs recognize the economics of such a request in times such as these. However, housing is a basic need that is severely lacking in these areas. With increased funding, adequate housing opportunities could be made available for more Indian families.

In closing, we appreciate this opportunity to address the Subcommittee on these critical Indian housing issues and we express our further appreciation for the Subcommittee's decision to hold this hearing in Indian country.

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