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REMOVING BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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REMOVING BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS

Monday, July 31, 2006

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

The subcommittee met, pursuant to notice, at 11:00 a.m., at the Cliff Castle Convention Center, Camp Verde, Arizona, Hon. Robert Ney [chairman of the subcommittee] presiding.

Members present: Representatives Ney and Renzi.

Mr. FULLMER. I would like to defer to our elder, Mr. Bobby Baird, but on behalf of Yavapai Nation, I would like to welcome you all here, and thank you, Chairman Ney and Congressman Renzi, for holding these hearings. I think it is critical to Indian country that you come out here and see what it is we're doing and what our needs are.

So welcome to Yavapai-Apache Nation. It is customary in our way that whenever we deal with important issues and daily issues, that we are a powerful people. So on that behalf, I have asked one of our elders, and he graciously accepted, to give our morning invocation and prayer on behalf of our Nation. Welcome and thank you. (Speaks in Apache).

Mr. BAIRD. Thank you. Good to see all of you here this morning, and I'm going to pray for each and every one of you, that you will do what you have to do, what you have come here for, and to accomplish everything. (Speaks in Apache).

Chairman NEY. Remain standing. We'll proceed with the Pledge of Allegiance.

[Pledge of Allegiance recited]

Chairman NEY. I want to begin. My name is Bob Ney from Ohio, and I am the chairman of the Housing and Community Opportunity Subcommittee of the House Committee on Financial Services, and I'm pleased to be here today with all of you, and with the chairman. We went with the chairman this morning, Congressman Renzi and I, and we had a great tour around to see the hard work that you have all done to try to make the lives better for the Yavapai-Apache Nation.

I would mention that on my wife's side, my two children have Apache blood and the boys are very proud of that, so I'm especially happy to be here.

I wanted to just take a second. Congressman Mike Oxley from Ohio is chairman of the full Financial Services Committee, and the

ranking member is Congressman Barney Frank of Massachusetts, and they send their regrets for not being able to be here. They are in full support of this hearing, and our subcommittee ranking member, Maxine Waters, who was here 2 years ago when we came out to Tuba City to do the hearing, was there at the time with Congressman Matheson and Congressman Renzi, of course, and she sends her regrets.

I should also mention that we have some staff here today, and representing Mr. Barney Frank is Jeff Riley. We also, at the end, will say some names. Let's have the staff raise their hands; these are wonderful people who work very, very hard in Washington, D.C.

I'm extremely pleased to be here. Congressman Renzi, my great colleague, whom I get to share some time with every week as we commute back and forth to Washington, has just been a champion. Congressman Renzi, I want to thank you, but I also want to mention that Congressman Renzi requested a hearing 2 years ago in Tuba City, and when we looked back through the records, we wanted to see when the previous hearing by the Housing Subcommittee that oversaw Indian housing issues, when it was, and we went back a decade, and 3 decades, and 5 decades, and finally went back to when there was no more written record. That was the first hearing in the history of the U.S. House on Indian Nation land.

This is the second hearing in the history of the U.S. House, so it's very important to the hearing process. This will, without objection, serve as an official hearing of the U.S. House. It's actually nice to be here. Ohio is hot, but it's very humid, so this is a little bit more of a dry heat. It's nice. But most importantly, it's good to be here because all the hearings can't be done in Washington. Coming out here where you, every single day, try to make things better for all the people that you represent, it's a wonderful time to be here versus having this hearing in Washington.

I want to let you know the importance of the hearing because this does count as an official hearing. We are able to take the thoughts and observations of the panelists we're going to have today and put them into the official hearing record to be able to utilize that to try to help people here in the Indian Nation.

So this morning, the Subcommittee on Housing and Community Opportunity will meet to discuss removing the barriers to homeownership for Native Americans, and what can be done to improve homeownership opportunities on reservation lands.

Today marks, again, the second time in the history of the U.S. House that the Housing Subcommittee has held a hearing on tribal lands.

There are an estimated 2.5 million Native Americans in the United States, made up of 562 federally-recognized tribes. While 1.7 million live outside tribal areas, more than three-quarters of a million Native Americans live on reservations and other tribal areas. This large population of Native Americans is often plagued with poverty, unemployment, and homelessness due to a lack of jobs and affordable housing.

This situation is partially due to the unique, and at times very complex, relationship that the Native American tribes have with the U.S. Government. Native Americans living on reservations, of

course, are U.S. citizens. Native American tribes, however, are recognized as domestic sovereign nations with treaty relationships with the Government. The Federal Government holds in trust approximately 56 million acres of trust land for tribes and Native Americans.

Because this land has been taken into trust by the United States, specifically the Bureau of Indian Affairs, the legal title to the land is also held in trust. Not having legal title means that while the tribe is the beneficiary of the land, they do not have the right to sell, lease, or mortgage the trust land, nor can they lose it for failure to pay taxes. This creates a unique situation that causes lenders to be hesitant to invest and lend money to Native Americans wishing to own their own homes, which is the dream of homeownership across this country.

Lack of affordable housing for Native Americans has been exacerbated, in part, because of complicated land title issues and the amount of paperwork and time it takes to obtain a title to reservation land.

I was talking with the chairman today and Congressman Renzi. Last year my family and I moved in the middle of our District. In 3 to 4 days and I think at a minimal cost of $4- to $500, we were able to acquire our title, and I know that can be done, and that—we were falling under the same situation, but with what you have to follow here, we wouldn't have been able to acquire our house and have been able to have moved.

So I know the U.S. Government has worked in recent years to improve housing opportunities on the reservations. For example, HUD has a variety of the individual programs designed to assist Native Americans with housing needs, but there is still so much more to be done, and I want to thank, again, Congressman Renzi, who has tirelessly worked on behalf of his constituents with passion, and you can see it in his face, and we've heard it many times where he has been relentless on this issue and other issues dealing with Native Americans, of course a wide variety of other issues. We help each other in the process of recovery, because we're at all representing our Districts, but we're all representing as a Federal Legislature the entire country.

I want to thank you, Congressman Renzi, for bringing all of this to the forefront, and I want to thank you again for having us out here.

Without objection, I'm going to yield and let Congressman Renzi chair the subcommittee for today.

Mr. RENZI. [presiding] Thank you, Mr. Chairman. Welcome, everyone, to the First District of Arizona, and, Jamie, thank you so very much for your hospitality, your kindness, and your leadership on housing issues and for taking the time to come to Washington, D.C., and teaching me. I feel like I'm among friends who have taken the time, Kathy and Joe, to teach me the issues. It's been your advocacy that has allowed me to learn, and then working with Mr. Ney and Ranking Members Barney Frank and Maxine Waters, together we've become a team in trying to push this forward and fight to break down the barriers.

I was listening to the prayer today, and I was saying to myself my own prayer. I hope that the facts on the ground today provide

us with the knowledge to take back to Washington, not just for the sake of knowledge, but for change, and ultimately that's what has to happen, is that these barriers, these impediments, this way of life must be lifted, and your leadership is some of the toughest leadership in the country.

We were over on the Yavapai-Apache Nation at an elderly center with Jamie just a half hour ago, and we were talking about the fact that we are in the largest land mass of poverty in America, right here, all throughout eastern Arizona, up through San Carlos, Whiteriver, Yavapai-Apache, Navajo, and Hopi. The largest land mass of poverty in America.

This chairman—the reason his heart is so big on this issue, is that he represents one of the highest concentrations of poverty in America, so he knows it. He understands it. He feels it, and he's been a champion, and I'm grateful, and none of this could have happened without your understanding and leadership, and what you've seen in your own world and back yard, and the same goes for Barney and Maxine, and I'm grateful for their help.

So I'm hopeful today that my friends will bring knowledge to us and will show us and talk to us, not just about the title search issue, which we are trying to understand, but we've got witnesses who have come from all over the country, from Alaska, from Washington D.C., and from the west. I've got my friends from the financial services industry here who have helped break down some of the barriers already, particularly up in Whiteriver, and we've got good people who have come together to help teach us on this issue so that we can move forward.

I'm grateful that HUD's Assistant Secretary for Public and Indian Housing, Orlando Cabrera, has made the trip from Washington. He has been different in Washington, not just a bureaucrat who gets up and reads speeches, but a man who has also understood the plight and the struggle, and I'm looking forward to understanding and listening to him and working with him, and I'm grateful for that. Thank you for coming out.

This is the second field hearing on Indian housing in the history of the U.S. Congress. This chairman has made this happen. Can you imagine a Congress of the United States going all the way back to the 1800's and never doing a field hearing, never doing a hearing that addresses Native American housing concerns, the poorest of the poor, and so I'm grateful, chairman, for your championship, and as I explained, we're going to hear from BIA on this topic of title searches, but I'm not limiting or constricting you in any way to just title searches, because we have a chance to understand other impediments you can bring forward today, and we can take them away and work on that.

I want to thank you—thank our team and the subcommittee members who pulled this together and came out in August, and I'm grateful. I bothered you for 6 months, but every time I came to you, you have been great in saying, "We're going to do it, we're going to do it as soon as we get to recess," and you guys got it done for me.

With that, I want to thank the chairman. Jamie, my friend, thank you for hosting this for us, and let's go ahead and begin.

Our first panel consists of George DuCharme, the director of the land and title records office for the Salish and Kootenai Tribes; Jamie Fullmer, chairman, Yavapai-Apache Nation; Kathy Kitcheyan, chairwoman, San Carlos Apache Nation, the first female chairman in the history of San Carlos; Mike Marchand, chairman, The Confederated Tribes of the Colville Reservation; and the Honorable Joe Shirley, president of the Navajo Nation. Mr. President, thank you for coming all the way down. We're grateful that you came.

With that, George, we will begin with you.

STATEMENT OF GEORGE DUCHARME, DIRECTOR, OFFICE OF LAND TITLES AND RECORDS, CONFEDERATED SALISH AND KOOTENAI TRIBES

Mr. DUCHARME. Good morning, Chairman Ney, and members of the subcommittee.

On behalf of The Confederated Salish and Kootenai Tribes and our tribal chairman, the Honorable James Steele, Jr., it is my pleasure to deliver testimony on the issue of removing barriers to homeownership for Native Americans. My name is George DuCharme, and I am an enrolled member of The Confederated Salish and Kootenai Tribes. I am the director of the Land and Title Records Office for the Tribal Lands Department, and I have served in that capacity since December of 1996, when the tribes compacted the title plant from the Bureau of Indian Affairs.

The Flathead Reservation is located in the great State of Montana. The reservation comprises 1.3 million acres and has a Native American population of just over 7,000. Due to the Homestead Act and the Allotment Act in the early 1900's, the tribes' ownership in the 1960's and the 1970's fell to less than 50 percent of the land base. Today we own approximately 65 percent of the land base.

We have a very active acquisition program. The individual tribal membership ownership is less than 3 percent of the reservation. The Homestead Act took all of the prime building lands, what was left of the mountainous timber lands, farm lands, and wetlands, so area for housing is a scarce commodity.

As I said, we have a very active acquisition program. We use tribal revenues and settlement. The Kerr Dam Litigation—the Kerr Dam was built and flooded much of the reservation, so we're actually buying back higher ground, I guess, for housing.

We also receive funding from the Federal Government for the buying of the individually-owned fractionated interests due to probates, and that is through the Indian Land Consolidation Act.

In 1990, the tribes implemented Public Law 93–638, contract with the Bureau of Indian Affairs to operate the lands program. The contracts were converted to self-governance agreements in 1993, when the tribes consolidated all Bureau of Indian Affairs funding as one of the first 10 tribes to be included in the Self-Governance Demonstration Project. In the Tribal Lands Department, our staff of approximately 30 employees administers agriculture, minerals, grazing leases, rights of way, appraisals, probates, land acquisition, billing and receiving, and resource planning programs. We have contracted and do all of the Bureau's function on the Flathead Indian Reservation, except for the superintendent and his sec-

retary, and we have an irrigation project, and that is the sole entity of the Bureau on the Flathead Indian Reservation. The tribes do all of the management.

I mentioned all these other appraisals, rights of way, probates, and acquisition. Title status reports isn't all that the LTRO is doing. We record and encode all of those documents into a national database. It's not just TSR's we're dealing with. We've got a much larger charge than producing a title status report. All of these other documents are related to that title status report and they're encumbranced against that title statute report.

Originally, when the tribes sought to include all land programs in a self-governance agreement, the BIA deemed LTRO as an inherent Federal function that was not eligible for inclusion. So we asked—we the tribal government asked—for a solicitor's opinion on this, and the solicitor came up with an opinion that yes, it was, in fact, compactable, and we compacted it and we operate it today.

So in 1996, the tribe assumed management of the LTRO. We believe it makes sense to have the land title and records on the reservation for the people and the land itself. I publicly acknowledge Mr. Stanley Speaks, Regional Director of the Bureau of Indian Affairs Northwest Regional Office and his staff for their commitment. Once he realized that we were serious, that we were going to compact the title function, they got behind us and made sure that we were a success, and we are a success today. It isn't because we, the tribal LTRO, can do the job better than the BIA LTRO. It's because of our vested interest in the outcome.

First, we have a closer tie because it is our land we're dealing with. It's our people, our friends, our neighbors. So we serve these people on the reservation. The BIA in the northwest region, on the other hand, must serve 44 reservations or tribes in five different States. We can do it sometimes faster, but it's not because we're better. We're dealing with one tribe. The Regional Office has a multitude of tribes they must deal with.

On the Flathead Indian Reservation, as it is in all of Indian country, in order to obtain a mortgage on trust land, a certified TSR is required. This is true whether you are borrowing from a bank or the tribal credit program. Between January of 2004 and January of 2005, my office produced 275 certified TSR's for mortgages alone, and as I stated before, mortgages isn't the only thing we produce the TSR for. It is for a deed, for land transfers. It is for a probate. TSR's for mortgages isn't the only issue.

It can take anywhere from 3 to 10 days to produce a certified TSR. The short timeframe to produce a TSR is due to the fact that we in the LTRO are personally familiar with each allotment, who the owner is, and where the allotment is located on the reservation; and, additionally, we have local signatory authority. The superintendent at the agency was delegated has the Secretary's signatory approval.

Also, prior to the tribes compacting the LTRO, the Northwest Regional Office LTRO certified all of our tracts and ownership, so I don't have to go back to the original trust patent and chain forward to today. I can go back to where it was last certified and chain forward to today.

Compacting or contracting the title function from the Bureau of Indian Affairs may not be the solution for all tribes. We were fortunate on the Flathead Indian Reservation to have had a successful working knowledge of the realty functions performed by the BIA. The tribal realty staff is the old BIA staff. They're just wearing a different hat. We just hired them straight across and they're tribal employees. You're a tribal employee today, and yesterday you worked for the Bureau. So we have a working knowledge. We didn't get rid of them and start over from scratch.

Mr. RENZI. Can you wrap up?

Mr. DUCHARME. Okay. I'll do that. In closing, I emphasize that the tribes are proud of what we have done and I appreciate your time.

[The prepared statement of Mr. DuCharme can be found on page 68 of the appendix.]

Mr. RENZI. I apologize. Your testimony is profound. You all have done it, so I wanted to let you know we have 5 minutes because we have 20 people and we're going to be here until midnight if we don't. Thank you for being here.

Chairman Fullmer.

STATEMENT OF JAMIE FULLMER, CHAIRMAN, YAVAPAI-APACHE NATION

Mr. FULLMER. Good morning, Chairman Ney and Congressman Renzi, and welcome to Yavapai-Apache Nation. I was proud and honored to show you around today, so that you can see the work that we've done as a Nation and what we're working on as a people to better ourselves for the future. We appreciate the opportunity to address you with our concerns in this forum. We have several issues we would like to present for your consideration.

We see some very real barriers to Native American homeownership and housing development within our own community. To start, income requirement guidelines for participation in Government-subsidized programs needs to be increased. Current income levels are at or below poverty level and discourage self-sufficiency and self-determination in our community.

Each Federal and State Government agency authorizing grants awards to American Indian housing has different income thresholds for qualifying. This lack of consistency creates competition among the programs and is confusing to our tribal program and to our community members. This needs to be changed to one acceptable income standard, maybe within each State. This way projects in very low-income areas, particularly our Indian tribal communities, would not be at such a competitive disadvantage to applicants from higher income areas such as the metropolitan areas.

Because we serve families directly from our waiting list, and we serve the very lowest income tenants first, we, as a Nation, can never hope to receive enough income from rents to cover all of the operating expenses. This leaves huge burdens on our tribal government to fund and carry the remaining overall cost burdens.

Funding needs to be increased in all Federal Indian housing programs, and there needs to be coordination and flexibility between these Federal programs to enable the tribal housing departments to utilize funding from all these different programs.

With the tax credit program, generally grants made from Federal funds used to operate a housing project after it is built and occupied causes a reduction in tax credits available to this project. This reduces investor equity, which will make the projects much more expensive and impractical.

The IRS put forth a regulation saying certain types of rental assistance, including HUD Section 8, do not require a reduction in tax credits. We would like to request that the IRS add NAHASDA rental assistance to this same list. The argument is that NAHASDA replaced HUD financing in Indian country, including Section 8, and NAHASDA rental assistance should be treated like Section 8. This would effectively prevent a reduction in low-income tax credit program funds.

Land and land lease issues are a major barrier to Native American homeownership. Currently the Bureau of Indian Affairs reviews, approves, and records all land leases and other land-related documents.

In the case of our Nation, one BIA office, the Truxton Canyon Office, handled these tasks for the entire northern half of the State of Arizona. This office employs one individual to handle this activity for five tribes residing in our area.

Also, there is a major disconnect, as I see it, between the regional offices and the real estate headquarters, which, believe it or not, for Arizona is located in New Mexico. While in the local counties, recording land documents such as deeds and right-of-way for non-reservation land takes approximately 30 days, as was mentioned earlier, and it can take the BIA upwards of 1 year to complete this same type of transaction.

This indicates to me several points: lack of trained personnel; lack of adequate working procedures;, and a lack of commitment of resources by this agency. Title status reports, as was brought up, are a requirement for compliance with Federal funding by several programs, as well as getting home loans from lenders.

The Yavapai-Apache Nation has applied on several occasions for TSR's, some of which we've never received to this day, and others have taken as long as 2 years to receive through the Bureau. This level of performance, to me, is unacceptable, and it must be improved to allow participation in these programs by our tribal community.

Finally, as I'm sure you're all aware, Federal program reporting requirements are laborious, complicated, and needlessly verbose. Everyone agrees that grant dollars must be accounted for and all expenditures paid with grant funds approved. However, progress reports should show progress from one period to the next with a forward progress for completion and compliance, and not recanting every activity from the previous reporting periods. This type of activity is nonproductive and unnecessary.

In closing, I want to thank you for your time and consideration, and on behalf of my Nation, we're very proud of what we've accomplished on our own accords, and we believe in ourselves, but we also recognize that we need the support, both financial support, as well as support of programming from the Federal Government, and would ask that you please consider these in your thoughts. Thank you. Kayhah.

Mr. RENZI. Thank you very much.

[The prepared statement of Mr. Fullmer can be found on page 70 of the appendix.]

Mr. RENZI. Chairwoman Kathy Kitcheyan.

STATEMENT OF KATHLEEN KITCHEYAN, CHAIRWOMAN, SAN CARLOS TRIBE

Ms. KITCHEYAN. Welcome back to Arizona, Chairman Ney, and also our Congressman, Rick Renzi. Thank you for coming. As already noted, my name is Kathy Kitcheyan, and I am honored to testify today to provide the views of the San Carlos Apache Tribe on the issue of removing barriers to homeownership for Native Americans.

With me in the audience today are tribal council member Robert Olivar, who is the chairman of the San Carlos Housing Board of Directors; Ronald Boni, executive director of housing; and also Cassandra Kid who is the director of planning.

Thank you for your deep commitment to addressing the needs of housing in Indian country. In particular, I would like to thank Congressman Renzi again for his tireless efforts. You are also a champion, sir, in helping us obtain a better standard of living for our people.

Two years ago, I testified in Tuba City on our housing needs. I expressed my hope at that time that we could work together to find ways to increase decent and affordable housing. Since then, my tribe has redoubled its efforts to address this problem. Today I am pleased to report that the tribe, with your help, has made some strides in providing more housing opportunities for our people, but there is much left to be done.

My reservation is in desperate need of decent housing. I have attached pictures to my testimony of some of the substandard housing conditions that continue to plague my community. As you can see, we are still struggling to meet a very basic standard of living.

Here are some statistics on my reservation. There are 3,325 families on the reservation and 3,147 families are low-income under NAHASDA. 1,327 families live in substandard housing conditions, similar to the pictures you have, sir. Another 1,358 families live in overcrowded conditions, some as many as 15 people in two rooms—two bedrooms or three-bedroom homes. 2,700 families still need homes.

In fact, we need to build 145 homes per year for the next 10 years to meet the housing needs of the current population, which has increased by over 6 percent over the last 2 years.

Due to financial limitations, the San Carlos housing authority can only build 40 homes over the next 2 years. We are decades behind the surrounding areas in providing decent homes for our people. We are working very hard to address this serious problem.

We believe the essential ingredient to increasing homeownership on the reservation is through a continuing commitment from the Federal Government and investors to this issue, coupled with more educational opportunities and economic development.

Since Tuba City, we have recently become eligible for HUD Section 184 programs. The tribe has partnered with Wells Fargo Bank.

The mortgage process for any first-time buyer is confusing and overwhelming. For a Native American from an isolated, poor area with cultural, language, and transportation barriers, it can be even more daunting. However, we are very appreciative that Wells Fargo has gone the extra mile to make this program work. They have met with folks on the reservation, and have also assisted with the paperwork and they continue to do so.

Five families have been approved for Section 184 in the past 6 months. Only a small number of Apache families, though, came in under Section 184, due to our staggering poverty and unemployment levels. Our unemployment rate is 76 percent, and our poverty rate is 77 percent.

Testifying at the Tuba City hearing resulted, though, in a very positive development for us. Key Bank heard about our plight. In fact, there was a person at the Tuba City meeting who relayed the information about San Carlos, and afterwards they reached out to us. So I'm pleased to say that we are working together with Key Bank to see if we can enter into a partnership to create a comprehensive package so that families who are very low income and not eligible for Section 184 can own a home.

Key Bank proposes to lend approximately $15 million for home mortgages over the next 2 years. This is a great start, but it only skims the surface in terms of meeting the overall housing needs on the reservation.

There are still many barriers that must be removed before our housing problem is resolved. The lack of economic development is a barrier to homeownership. At San Carlos, there are roughly 1600 jobs for over 13,000 people. We need more jobs so that our people can afford to own their own homes.

Furthermore, we need more educational and training opportunities so our people are qualified for jobs and can perform them. We depend on NAHASDA for capital. We are making progress with Wells Fargo and Key Bank, but we still have a long road ahead of us.

The difficulties with leasing are a barrier to homeownership. The tribe must obtain approval from Interior for its long-term lease agreement. There are inordinate delays and thence the administrative hurdles in this process make it difficult for us to attract lenders. We believe that this Federal process is unnecessary under today's self-determination policies. We support legislation that would eliminate this approval process. Navajos and Tulalip are already exempt under the law. We should be exempt, also. I have attached proposed legislations for your consideration.

Let me tell you a story. Last week one of our housing employees went to Albuquerque to expedite the signing of a document for a TSR, and before he went, he e-mailed the document so that they could review it and it could be processed quickly.

Well, when he arrived in Albuquerque, he discovered that BIA lost the document, and so while he was there, it had to be e-mailed again. This is unacceptable practice. We know that some of our—the tribes in the northwest, Colville and the Salish Kootenai, 638 this entire process, and that's what we would like to do, as well.

The lack of infrastructure is a barrier to homeownership. My reservation, as you heard before, has 1.8 million acres, but only a

small percentage can be used for residential building purposes due to the rugged terrain and lack of infrastructure.

As I stated in Tuba City, the tribe's utility infrastructure is inadequate. When you build homes, you need a way to provide electricity, water, plumbing and gas. We need funding to do all of this.

In conclusion, we want to continue to work with you to develop more homeownership opportunities, not just for the San Carlos Apache tribe, but for all of Indian country in the Nation. Thank you, and I hope you find this information helpful.

Mr. RENZI. Chairwoman, I want to thank you so very much. We appreciate your comments.

[The prepared statement of Ms. Kitcheyan can be found on page 75 of the appendix.]

Mr. RENZI. We'll move now to the president of the Navajo Nation, Joe Shirley.

STATEMENT OF JOE SHIRLEY, JR., PRESIDENT, THE NAVAJO NATION COUNCIL

Mr. SHIRLEY. Thank you, my brother. The very honorable Mr. Rick Renzi and very honorable Chairman Ney, thank you very much for affording me the opportunity to share with you a few sentiments regarding homeownership on Navajo land, as well as throughout Native America.

I want to express my appreciation on behalf of Navajo Nation, the Native America, for reaching out to us. Oftentimes, Native America comes to you in Washington to share with you some of the challenges facing us here, but in this case you are reaching out to us, and we just want you to know we appreciate that.

So thanks for reaching out and, of course, you have my written testimony. I'll just go ahead and very quickly summarize what is in it. I just have a couple of things to say, really, and then I have my younger brother, Mr. Chester Carl, who is our housing expert on Navajo land. If there are any questions that you might need to ask of me, he will help me answer those questions.

Back on Navajo land, we still have a lot of red tape surrounding the title status report processing system, and that produces a hindrance to homeownership, trying to get at loans. You know, we want to get at building houses with roots, and that's something that you can go along or tag along, you know, and so the red tape that is created in trying to get at the title to go for a loan is just unbearable, and I think some of my colleagues here have shared that with you, and so you asked me what are the barriers, you know, to get that homeownership. So that's one, and, of course, we shared this with you at times past, and I want to share that with you again.

What that means is it still takes time, anywhere from 2 to 3 years, you know, to get this at this process to where we can talk loans with banking or the different financial institutions that can finance these homes. So when they can't get answers right away, some of the people who are wanting to get a homeownership, what happens is they go off Navajo land to buy mobile homes, modular units, you know, and it zeroes in on the economy of Navajo land.

We would like to see monies stay there on Navajo land, but when they go for homeownership, you know, a mobile home, a modular

home, the monies go off Navajo land, and that's not good. So—and then, also, one of the things is because they can't get at the homeownership or a piece of ground to get a loan to build a house on Navajo land, some of our members are buying houses in the border towns, and that is also getting the monies off Navajo land, you know, and that's not good, and they're having to commute from the border towns where they have a house, into the heart of Navajo land, whether it's Chinle or Window Rock, to get at their work.

So in order to help us to get at homeownership, we need to get away from the red tape that is inherent in the title status report processing. I'm not exactly sure where the Bureau is with it. One of the things that I feel is that it is not a priority with them to really work this title status report processing, and we need to have them make that a priority, but that's another time, I guess.

But, otherwise, what I would like to offer here—you also asked me what are some of the new initiatives that you have to take on to get away from these stumbling blocks. There is where I want to have the Navajo Nation be afforded the opportunity, under 638 of title processing, to have the Navajo Nation establish its own title plant.

We did that with our business site leasing recently to where the BIA is just totally out of picture, you know, and right now the Navajo Nation—the Navajo Government can approve all business site leasing, but we don't stop there.

If our Chapters out there are certified, according to the Navajo Nation law, then the certified Chapters that have the land use plan in place can approve business site leases at the local level, and I think this could expedite bringing economic development to Navajo land.

That's what I see with homeownership. If we can get away from the Bureau and the processes that comprise a lot of red tape and have the Navajo Nation establish its own title plant on Navajo land, that would be the way to do that, and I want to recommend that to you, the Honorable Mr. Renzi and the Honorable Mr. Ney, and I think that will cut out a lot of this time, and the more time we take out, the more expeditious we are in establishing housing with roots on Navajo land.

That's one of the things I want to share with you, and then also the last thing is, of course, we need monies to get at the houses. I appreciate the Administration going forward to propose the new land lease for the using the multi-race census data, basing it in 2000, and if we can get away from there, I think that would mean more monies for the different tribes that are out there, especially in the Navajo Nation. So the more money we have, the more homes we can build for homeownership.

So this is something that I wanted to share with you. I believe that we have put the legal infrastructure in place to get our own title plant. We are very diligent and we are using our own monies right now to do that, but it would be good if the Federal Government could infuse money to help us move forward in putting this title plant in place. I think that will go a long way in cutting out some of the red tape and some of the barriers in going for homeownership on Navajo land. Thank you very much, my brother, Mr. Ney.

[The prepared statement of Mr. Shirley can be found on page 96 of the appendix.]

Mr. RENZI. Thank you, Mr. Shirley. Thank you for your insight, and I appreciate Mr. Carl being with you today and we're going to look forward to some of your answers as we get into the Q and A session.

Mr. Marchand, thank you for coming. I'm grateful for your traveling this far. Go ahead.

STATEMENT OF MICHAEL MARCHAND, CHAIRMAN, COLVILLE BUSINESS COUNCIL

Mr. MARCHAND. Good morning, Chairman Ney, and Congressman Renzi, and thank you for this opportunity. My name is Michael Marchand, and I am chairman of the Colville Business Council in Washington State. Most of my life and my background has been in economic and community development, with a masters degree in urban development and planning, and I concur with the panelists, and we submitted a written testimony, also, and I'll speak mainly to our taking over of the land title records office issue.

Also, I'm accompanied by Sharon Redthunder, who has had about 40 years of experience with our realty functions. If you have any technical questions, she's here to answer that.

Our tribe is located in Washington State, on about 2,100 square miles of land. In the early 1990's, we discovered that our Northwest Regional Office had not updated records on most of the lands within our reservation for a period of over 8 years.

The regional office would generate TSR's by manually searching through piles of documents. It was a real slow process. A single report took 60 to 90 days, and we looked into that and felt that we could do better.

In 1996, we started negotiating with the Office of Park Land to take over those functions. The BIA was not very helpful in this process and resisted our attempt to contract those functions, but it did get concluded by April of 1997. Today we operate our own functions and we can generate the TSR's in one day. We believe that's mainly because it's our own people working in there, where we have more control over the process, and it's more efficient locally.

We can—an important part is we can acquire the tribal credit which does a lot of our housing—the housing loans for tribal members, and things are working pretty well in those areas. So I just want to impart that to you. I think the key is more local control and local decisionmaking, and I think that is the reason for the success on my reservation.

We also have other problems as the other panelists mentioned, things like infrastructure and planning, and so forth, but that's mainly what I wanted to report on. Thank you.

Mr. RENZI. Thank you, Mr. Marchand.

[The prepared statement of Mr. Marchand can be found on page 92 of the appendix.]

Mr. RENZI. We're going to go ahead to the questions, and then we'll move on to the second panel.

Chairman Ney, would you like to start?

Chairman NEY. Thank you, Mr. Chairman. I also want to mention that Congressman Greg Hall had talked to me, we were actually voting last week about 1:00 o'clock in the morning, as you know. He mentioned he was coming here from New Mexico and he had some flash floods, or something, and he couldn't be here, and he looked forward to being here and sends his regrets.

Mr. DuCharme, the question I had, I heard you say it takes 3 to 10 days to produce a certified TSR, and I think you ought to be commended for being able to do that, but you said it may not be the solution for all of the tribes. Why is that? And anybody else that would want to comment, too, why it is or isn't the solution.

Mr. DUCHARME. Basically it's the infrastructure; whether they have the manpower to do the job. On the Flathead Reservation, we had the BIA staff. When we compacted, that became our tribal staff and that is the staff who do the job. Do you have the knowledge base and the experience? I think that is the key.

And another key is you've got to be aware that the funding is not going to be fully adequate. The Bureau is not going to provide every nickle and dime that you need. Our title plant is subsidized by the tribal funding. We aren't fully funded, so—

Chairman NEY. I'm sorry. I didn't mean to interrupt, but to follow through with what you're saying, did the Federal Government fund anything for this?

Mr. DUCHARME. Yes. They funded the initial start-up costs and they provide salary for 1½ staff persons.

Chairman NEY. So your total cost to do this—they did the start-up, the staff. For your ongoing operational costs, are they 50–50, 60–40, or what percent?

Mr. DUCHARME. I would say it is roughly 60–40.

Chairman NEY. So is that 60 percent Federal?

Mr. DUCHARME. Right.

Chairman NEY. Anybody else? Is that feasible for the rest of you, if the Federal paid—

Mr. SHIRLEY. I think so. Of course, when we're talking about 638 and having the tribes do their own programs, the Federal programs, that has been a problem. So I think it behooves the subcommittee to really zero in on that when it comes to appropriation time. Some of the programs that have been taken over by tribes under 638, they are hurting out there; on Navajo land, the social services, health services, and public safety. So I don't believe what they're talking about is any different.

So if we can go 638, not only this program, but other Federal programs that are taken over by the tribe, they need to be adequately funded.

Chairman NEY. Mr. Shirley, a quick question. I don't want to take all the time for the questioning. I know we have other panels, too. I want to ask you in general—for example, farm service agencies are a big deal where I come from, and right now they're consolidating those offices.

So in rural areas, which I have 16 counties. Ohio is 88, so it's a large area. Those consolidations are very difficult for our farmers, especially when you're talking about travel, your ability to get there. We're not—we don't have a high rate of computers where I'm from.

Having said that, I'm just thinking along the lines of the BIA out here, and has there been increase in staff or service of the BIA consolidation, decrease of staff? When you want to deal with the BIA, I think you had said, Ms. Kitcheyan, that you could travel and it would be done in 2 weeks, but if you were dependent upon them being able to come here—

Any thoughts about the staffing levels, interaction, outreach?

Mr. FULLMER. I would like to respond to that. Thank you very much, Chairman Ney. On behalf of Yavapai-Apache Nation, one of the things that we have is a—we're served under Truxton Canyon Agency which falls under the Phoenix Area Agency, and what we see is that for us it's been very difficult to get our current TSR's in place, and so I think the difficult portion of that is also with respect to getting new TSR's for the new developments that we were able to go up and look at this morning.

I think that's something that hinders us, as well, and I agree with the panel that if that could be localized to the tribe and the tribe could have control and authority over leasing on its own lands, then we could really create better master planning within our own communities because we would know the timeframe that it would take to get these leases in place so that they could be more effective.

The question you originally asked is have we seen an increase in staff. Yavapai-Apache Nation, we have seen a decrease in staffing and a decrease in outreach and services to our Nation, and that's—with our development goals and plans and our ambitions, it goes completely against our ability to handle the current needs.

Chairman NEY. What is the staffing level you deal with in your Nation? In other words, how many staff are—I wouldn't say assigned to you—but to your region and how far away are they?

Mr. FULLMER. I believe that Truxton Canyon has one where they used to have one and now has less than one staff.

Chairman NEY. Truxton Canyon is what?

Mr. FULLMER. Truxton Canyon is 3½ hours, 3 hours, in Peach Springs, Arizona, and so that's a hindrance in and of itself.

Mr. RENZI. They have a part-time now.

Chairman NEY. You have a part-time.

Mr. FULLMER. I believe so.

Ms. KITCHEYAN. I would also like to add my comments to the rest of the panel. Any time I experience on the San Carlos Apache Reservation—any time we have a 638 program, we see a decrease in funding, and it is across all programs. It is not just for the land-use part of it.

But getting to the TSR's and the story that I told, you know, the employee was hoping to expedite the process and get this important information back to San Carlos, you know, is only one, but there are many other times that this has happened, and we have to go to Albuquerque in order to get those documents signed and returned.

Other—you know, the other stories that my staff told me is that it takes sometimes almost a year or 16 months to get those TSR's signed, and if we have local control, which self-determination and sovereignty is all about, we can take that off the hands of the BIA and probably do a better job than them.

Chairman NEY. Well, to sum up my questions, Mr. Chairman, I know, President Shirley last time we saw you and you testified, the same issue was out there about the length of time the title was taking, and like I said, if I had to wait that long, I wouldn't have a house, and I don't know how anybody can do that. You can't hold rates.

And the fear I have—and I will say that the hearing was a great thing to do and I think good things came of it. We have a BIA Chairman here today, because we had a follow-up hearing in Washington when I know the specific statements were made by the BIA, and that would have been 6 months, and if I remember, July 17th last year—not that I'm so smart, the staff is smart. They reminded me of that today on bipartisan basis.

So on July 17th, within 6 months, we would have—due to computers, or whatever, this would be speeded up. So we'll hear from them today, because I want to say in closing, the concern I have, we have gone—this is our 64th or 65th hearing as a subcommittee. We have passed 22 bills signed into law on a bipartisan basis working with Mr. Oxley and Mr. Frank and Maxine Waters and Mr. Renzi and other great members. We have been able to really craft some things that are going to help people.

Having said that, we have a GSE bill pending in the Senate, some $5 billion, close to, that is out there for housing or rental. What I fear, that the $5 billion sitting there, which a great thing to do if we reformed Fannie Mae and Freddie Mac are the regulators. We have the American Dream Downpayment. We have all these programs that are never—they're not going to get to you, all because of this one glitch.

So this—I'm starting to worry about it. I fear that they're out there, but you're not going to be able to—because of this glitch, be able to access them, and I wouldn't even call it a glitch. It's a severe problem.

Mr. RENZI. Thank you, Mr. Chairman. I'm grateful.

I have a few questions, if you don't mind. George, thank you so much for your thoughts. Your insight and experience is a great thing. You said two things. First of all, you said that the closer tie to the land gives your people the ability to work harder—first of all, you're focusing just on your tribe, your people specifically. It makes a big difference.

Mr. DUCHARME. It does.

Mr. RENZI. Secondly, you're fighting for your own people. You're fighting for your own blood. An army fights harder when it is fighting on its own soil. I think that's what you are doing.

When you look at what the BIA has to do—first of all, they're underfunded. I voted against this budget 3 times. We don't give them enough money. They don't have enough people. We have good people in place now. They are much better than what they had in the past. We have had a lot of show horses in the past, and not enough work horses. The guys we have in place are trying hard, but I still think they don't have enough money.

When you look at the eastern tribes, small hundred-acre reservations with a casino, with 200 members, and then you look at the western tribes, and they're all operated under the same umbrella, same type of organizations, how do you think, with your experi-

ence, it would affect my tribes, particularly out west, who are much more land-based, land mass, much more of a rural frontier population spread out, where Mr. Fullmer was talking about how they have to go 3 hours, or Kathy's people have to go all the way to Albuquerque. There is a detachment you feel in the west.

I just think in the west it has to be—we have to look at putting the offices on the reservations in Indian country in the west because of the fact that we're so much more spread out from a location standpoint. Can you see how it lends itself more in the west? I'm not trying to make an argument in my favor, but I am. What are your thoughts?

Mr. DUCHARME. We are in the west.

Mr. RENZI. Right.

Mr. DUCHARME. And it made sense to us to have the function local.

Mr. RENZI. My point is BIA will have plenty to do and it will stay in place with the title searches that they're doing with the new computer system in Washington. They can do a great job servicing a majority of tribes, but in the west with the vast land mass and how spread out they are, it lends itself to this type of situation.

Mr. DUCHARME. Yes, it does.

Mr. RENZI. I answered my own question. When we went out together and we looked at the new land that you have, some of the old trust land you have, you have an issue where you asked BIA for a title report that is almost 4 years old. I want you to drill in on that issue.

Mr. FULLMER. We had submitted for an Indian tax credit program funding, and as was brought up, we need these TSR's in order for the lenders to be willing to fund on the developments, and we asked for an updated TSR on our existing old trust lands, and to this date, I don't believe that we have those up-to-date TSR's.

This was asked for in 2002, and then again in 2003, and I believe that some of the difficulty in that is that the break-up of information is between—in our case between three different Bureau departments. One in Truxton Canyon in Peach Springs, Arizona, the other in Phoenix at the regional office—area office, and as was brought up earlier by Chairwoman Kitcheyan, the real estate information itself is held in Albuquerque, New Mexico.

I think there's a fundamental flaw with respect to the ability and availability of that information to be shared in a timely fashion.

Now, with the current lands, we hope that—I know that the staff worked hard, but I agree with you that was brought up. They're just understaffed to provide what we need, and I agree with the idea of localizing that within the tribe so that the tribe can take control and handle it, but it has been a 4-year process waiting for information that we assumed was already in the archives, and these are ancient trust lands. They're not new lands.

Mr. RENZI. I would request that my BIA friends who are here, before we leave the reservation, get with Jamie—get that one case history as it relates to a 4-year-old TSR that we're waiting on the trust lands. If I could ask that, please.

Kathy, thank you for your testimony. I can remember going out with you and being on San Carlos during the summer right before monsoon season and seeing the homes and seeing some of the con-

ditions they were living in. I can remember those little children in the home, 12 to 15 people moving out into the hammocks during the summer season so it would be a better space in the home, and I've seen the conditions and the tough conditions that you are experiencing.

You talked to me about building 145 or 150 homes per year for you to get caught up in 10 years. What specific program do you think would be the number one program of the Federal Government to help you get that done? Is it a lending program? Is it something with Fannie Mae that we can do?

Ms. KITCHEYAN. Congressman Renzi, with all due respect, this is the way I'm going to answer it. Okay. Yes, we're doing the Section 184. We're doing Key Bank. There is a representative in the audience. But why should we have to go to lending?

The U.S. Government, when they put my people on reservations and confined them, and stripped away four more pieces of land, and when they said they would take care of the San Carlos Apache, why should they go to a lending program? If the U.S. Government can send billions of dollars to foreign countries, why should we talk about lending?

But because of the way the economy is today in the United States, we are forced to go that route, and based on what took place 2 years ago, we have made some improvements, but those pictures that you see are still the way a lot of my people live. I hope I answered your question, sir.

Mr. RENZI. Yeah, very powerful. Thank you.

President Shirley, I'm grateful. Two weeks ago your people came back from Washington D.C., and BIA did a good job in signing the legislation. You flew back there. I think that allows for the first time business site leases to be approved on the Navajo Nation.

Jamie and I were talking today. If I was a young Navajo and I wanted to open a Denny's Restaurant in Window Rock, I could now go to you, I could go to the Navajo Nation, and that whole approval process for a business site leasing is contained locally by my elected leaders. So they're responsible and they have to answer to the young Navajo entrepreneur.

There is also in that language that was signed, a carve-out that also allows you to do that for residential. We haven't gone down that path.

Mr. Carl, I think you know the language I'm talking about.

Not only when the Federal law was signed—the Federal law that says you had the ability to work with BIA while eventually establishing your own business site leasing and you controlling it, it says also for residential. The word "residential" was slipped in the language, and we just found it the other day, and I'm saying to myself, okay, what you did with business site leasing, you already have the authority now to do—a Presidential authority back under Bill Clinton to do for residential.

I talked with one of your people—one of the ladies back in Washington a couple of weeks ago about this idea. What do we have to do, then, to take the authority that has already been given you, and then allow you all to have the authority to do your own approval process for residential?

You know the language I'm talking about?

Mr. CARL. Congressman, yes, I do, and Congressman Ney and Congressman Renzi, as far as the steps—

Mr. RENZI. May I interrupt you. Could you repeat your name for the record, please.

Mr. CARL. I'm Chester Carl, CEO of the Navajo Housing Authority. Thank you very much. I think the system we are discussing here allowed the authority to tribes to take the initiative under self-determination, self-governance. Consistent with all other programs, it is a long time coming.

What we require now is to demonstrate that as the Confederated Salish and Kootenai Tribe has done, is take that to the next level, the title status report, do to title plant function, and one of the prime example, if I may, demonstrate and display is the network system, the software system.

If the tribes can come out with the whole software system which is not able to—not only able to assemble all of the land data, but also all of the that information related to land-use plan, infrastructure, even down to economic development proposal, residential areas, and all of those—if that can be a network system which would be successful where you don't have to go all the way to Albuquerque, but which you can do it from, for example, San Carlos or Tuba City Chapter, or whatever the case may be, which is GPS driven, I think that's probably the system we need to direct our attention to.

Mr. RENZI. Would it tie into the national system?

Mr. CARL. The GPS system?

Mr. RENZI. Yes, so you would have your own portable where you would tie in on Navajo and go back to Washington.

Mr. CARL. It doesn't necessarily have to tie in. If there is tribal control, it goes back to the Central Navajo Control Office.

Mr. RENZI. Like you did down at—

Mr. CARL. Right. Navajo. For smaller tribes, it would be a very similar system, and it could be tied—

Mr. RENZI. You would put it in the Chapter Houses.

Mr. CARL. Yes. It would be a network system. The TAAMS project is one that has been promised to create a lot of the flexibility, but it's demonstrated that it's not working real well.

The other part of that is being—allowing similar access to records as the counties do, States do. Those are public records. In this case, the trust land records are restricted records. So why that is, we don't know.

Mr. RENZI. What do you mean—restricted from what?

Mr. CARL. Restricted from access. The San Carlos was provided—

Mr. RENZI. If a Navajo wants to see right now the title, he can't see it.

Mr. CARL. We have to go through BIA personnel, and if we go through the Albuquerque BIA title office, you have to go through security clearance even just to get to the office. So those are some of the scenarios we have to go through.

Mr. RENZI. Okay. Mr. Marchand, thank you for your testimony and for coming all this way. I was impressed when you stated that it takes one day to do a title search, one day, and you were able to set that up also like Mr. Ney was asking of George with a little bit of Federal assistance.

Mr. MARCHAND. Yes.

Mr. RENZI. And how many people run your operation now?

Mr. MARCHAND. Let me defer to Sharon.

Ms. REDTHUNDER. Good morning. My name is Sharon Redthunder, and I've been in the realty department for over 40 years. I've been working since before there was a title plant, and so we were successful in contracting titles and records because we had staff on hand who knew how to achieve title.

We knew that—what all the records were locally. We manually maintained our own records, so we were able to compact and we were able to issue a title status report immediately. We worked closely with our record—I mean, our Colville Tribal Credit. We also are working with Key Bank on 184 loans.

We have two staff in the title and records department, and what we've done is when there is a document that is recorded, they issue updated title immediately. They don't record the instrument and set it in a pile and later come back and do the updating. It is done immediately.

So we're—as soon as we record a mortgage, they update that title status immediately and come out with a new certified title status report.

Mr. RENZI. Would you be willing to help train—if we get this worked out where some of our sovereign Nations take over their title searches, is their inter-tribal councils—do we do training on the inter-tribal council level for—we could take it up that way, and BIA would help train, but, also, if you have Native Americans training Native Americans, we could really share that knowledge.

Have you trained any other tribes? George, have you worked with any other tribes?

Mr. MARCHAND. No. We have not.

Ms. REDTHUNDER. Not in the title plant. I have trained in other fields.

Mr. RENZI. Such as what?

Ms. REDTHUNDER. I have been working in the trust field for many years. I worked in California for a while. I've also been working with the Bureau of Land Management in training on land tenure in Indian country. So I have worked with various groups in training.

Mr. RENZI. That would be great to cross-train. Our inter-tribal council is very strong. We could do that. Thank you. Is there anything else anyone on the panel or any of our friends or witnesses would like to add that didn't get said? No?

Then I want to thank this first panel for coming and for sharing your experience, and, hopefully, this will be the first step to change. Thank you so much.

Our second panel consists of Orlando Cabrera, Assistant Secretary of Public Housing and Indian Affairs, Department of Housing and Urban Development; Edward Browning, Arizona Rural Development State Director, Rural Housing Service, Department of Agriculture; and Allen Anspach, Regional Director for the Western Region, Bureau of Indian Affairs, Department of the Interior.

Thank you so much. We'll go ahead and get going here on the second panel, and I want to thank you all for coming this far. We had—I think that first panel was very enthralling. A lot of good

stuff came out of it. I'm hopeful we can now, with some of our experts here, begin to move, and with that, Orlando, thank you for coming my friend, and also thank you for your hard work. You've been different. You've been different than any predecessor, in my opinion. I'm a man who doesn't respect anyone until they've earned it, and I try to live the same way. So, sir, I'm grateful for you to come today.

STATEMENT OF ORLANDO J. CABRERA, ASSISTANT SECRETARY, PUBLIC HOUSING AND INDIAN AFFAIRS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. CABRERA. Thank you. That was nice. I appreciate it. Good afternoon, Chairman Renzi, which is unusual to say, and Chairman Ney. My name is Orlando J. Cabrera, and I am HUD's Assistant Secretary for Public and Indian Housing. As always, it is a pleasure to appear before you again. I would like to acknowledge and thank all of the elected tribal leaders present today, and all of the Housing Authority leaders, as well. They are critical to the housing mission in Indian country.

The purpose of this hearing is to explore barriers to Native American homeownership, but before I speak about our successes in confronting barriers to homeownership and the work that needs to continue, I would like to take a moment to explain our vision for homeownership in Indian country.

Our goal is to utilize BIA's Native American programs as catalysts for economic development and to contribute to sustainable economies within Native American communities. This is possible by union homeownership and development of affordable housing as a vehicle to attract other sources of capital.

Today there are more ways to leverage Federal funds than ever before. We encourage wherever possible that tribes work beyond HUD's Indian Housing Block Grant and Title VI programs, and pursue opportunities such as the low-income housing tax credit and other Federal and State programs, as well as seek partnerships with the private sector.

We believe HUD's success with those 184 loan guarantee programs work with the BIA to streamline the title status report process and its initiatives in the area of land assignment law and tax exempt law, and tax exempt bond financing, will help build sustainable economies and makes this vision a reality.

Homeownership and the ability to build equity in one's home is an important component in developing strong tribal communities. HUD's Section 184 program has made a significant contribution to the overall success of the Administration's homeownership initiatives. The 184 program provides a Federal guarantee to lenders for 100 percent of the principle and interest on market rate loans to Native American homebuyers.

In fiscal year 2005, the number of loan guarantees increased to 634 from 480 the prior year, representing $76.8 million in mortgage guarantees. So far in this fiscal year 2006, HUD has guaranteed 893 loans, and we expect this number to grow.

But the system can be improved. We are still confronted with some barriers such as title recordation and streamlining the title process overall. We have been collaborating with the BIA to help

make the TSR process a faster, more usable, and consistent product.

In 2004, HUD entered into an MOU with BIA, and USDA Rural Development Board together with tribes in order to provide housing development related assistance to Indian country. In furtherance of the MOU objectives, the BIA released an interim TSR processing policy on September 29, 2005. However, this policy was not implemented universally by the BIA Regional Offices, and part of the policy solution, that is to use a title endorsement, fell short of generally-accepted standards of title review.

Lenders continued to express concern about the length of time it takes to process a TSR using the current process and the cost implications to the borrower.

I met recently with Interior Associate Deputy Secretary Jim Cason to determine if there was more that could be done with us working together. At that meeting he re-stated the BIA's commitment to streamline the TSR process. He and I agreed to a plan that would resolve the current backlog of TSR requests.

As an outcome of this meeting, HUD drafted and submitted to the BIA a new title endorsement document that addresses the deficiencies in the previous title endorsement. It was a mortgage new policy which I can go into further in a bit.

In addition, HUD has offered to collaborate with the BIA in order to develop and facilitate a series of regional training sessions for BIA personnel, and that would be done also in conjunction with the Federal Reserve, stressing the importance of speed and consistency of process and review.

The TSR process has room for improvement, and through our partnership with the BIA, it is also evolving well. We look forward to working with the Bureau to develop solutions to improve efficiency wherever we can.

A major component of building sustainable communities is having a viable secondary market for real estate. HUD and the BIA are currently working collaboratively in another effort, the Land Assignment Law Initiative, which is designed to increase private sector involvement in the housing market on reservations.

The tribe will be able to issue a land assignment to a tribal member that is not subject to the 50-year statutory limitation on encumbrance through the use of the land assignment process. The Office of Native American Programs and BIA have worked with the Mashantucket Pequot Tribe to establish a model tribal land assignment law. The Interior Solicitor's office has approved of the process and initiated an opinion that individual assignment governed by tribal land assignment law do not require BIA approval or recordation.

NAP will issue program guidance on land assignments for the Section 184 program in the coming months, and we expect other tribes to take advantage of this innovative process.

NAHASDA's Indian Housing Block Grant Program continues to be the largest single source of housing capital in Indian country. BIA's IHBG program which came online in the beginning of fiscal year 1998, has now distributed over $5.7 billion in funding to tribes for their TDHE's, but relying on IHBG funding alone without leveraging those dollars, misses a significant opportunity.

We continue to explore new ways to combine HUD resources with those of other Federal agencies, the States and the private sector. Additionally, HUD is exploring ways to use its technical resources to provide educational and capacity building opportunities to tribes interested in expanding their housing development programs.

Finally, on behalf of Secretary Jackson, I want to thank you, Chairman Renzi, for your work on homeless issues and for introducing legislation that would consolidate HUD's three primary homelessness grant programs. We are grateful for your leadership on this issue and your commitment to helping chronic homelessness. This concludes my prepared remarks. I would be happy to answer any questions you might have.

Mr. RENZI. Thank you, sir, very, very much. I appreciate your thoughts.

[The prepared statement of Mr. Cabrera can be found on page 99 of the appendix.]

Mr. RENZI. Mr. Browning, it is good to have you today, and I appreciate your friendship and hard work. Mr. Browning.

STATEMENT OF EDWARD BROWNING, ARIZONA RURAL DEVELOPMENT STATE DIRECTOR, RURAL HOUSING SERVICE, DEPARTMENT OF AGRICULTURE

Mr. BROWNING. Thank you. Chairman Ney and Congressman Renzi, it is my pleasure to welcome you here to Camp Verde, Arizona, for this important discussion on removing barriers to homeownership for Native Americans. USDA Rural Development's mission is to increase economic opportunity and improve the quality of life in rural communities. Rural Development plays a pivotal role in ensuring that rural Americans share in the economic vitality of this country, including the dream of homeownership. Nowhere is that dream more of a challenge than here on our Native American lands.

Arizona has 21 recognized tribes, from tiny tribes with little or no tribal land, to the Navajo Nation, the biggest reservation in the country. The Navajo Nation spreads into three States and covers over 27,000 square miles of reservation land.

The President's Minority Homeownership Initiative has helped us focus on this issue. We have worked to create innovative ways to ensure that we keep the commitment to maximize our impact. Homeownership rates on the reservations is slightly more than 40 percent, as compared to the national average of 68 percent. There are several barriers that contribute to this.

One is the trust land issue, which has been well documented on our first panel. The second issue is the low-income levels with the per capita average income on our largest reservation of $7,300 a year, being able to make regular mortgage payments is a major stumbling block to homeownership.

A third issue is the remoteness which makes it difficult to bring in services and materials and to reach the folks to tell them about our programs. Outreach efforts are further complicated because Native American clients often have to navigate through many Federal, State, and tribal programs. Rural Development has been taking some steps to overcome these barriers.

For the past decade, we have targeted the Native American communities for housing and other community business services. Ten percent of Arizona's rural development staff is Native American. Our office in St. Michaels on the Navajo Nation is staffed by Navajo personnel who are culturally aware and speak Navajo.

In 2005, despite the vastness of the Navajo Nation, our staff made 61 outreach visits. That's more than one a week. Louis Shirley, our rural development man in the St. Michaels office, averages 40,000 miles a year in travel to do this outreach. It should be noted that for my staff to reach the Havasupai Tribe, we must either walk, ride a mule, or take a helicopter ride to the bottom of the Grand Canyon.

Mr. Shirley not only made many of these outreach visits, he also saw a need for a coordinated approach to serving the Navajo Nation. He was the driving force behind the formation of a partnership of funding entities in the community called, "Saw Mill." The partnership was successful in combining funds from Federal, State, local, and tribal governments and the individual with the goal of reducing the cost of housing to the prospective homeowner.

By combining funding from a variety of sources, Mr. Shirley was both able to reduce the risk for any one agency and the amount of the loan, thereby making the payments affordable and breaking down the credit barrier. The plan is to replicate this model for other potential homeowners.

Rural development has also taken care to help create community facilities, infrastructure, and economic opportunities for the Native American community. The real test of our commitment to removing these barriers is how well have we been able to do our job. In other words, have we created clean, safe, affordable housing for Native Americans here in Arizona?

Our record shows that we have, with over $14 million in housing assistance for Arizona Native Americans, which includes $2 million in single-family housing loans and repair grants, $7,500 per family, $6.8 million to provide over 250 units of affordable multiple-family housing.

Additionally, we have spent over $47 million in building schools, hospitals, community centers, telecommunication, broadband, and business development projects. In total, rural development has provided over $62 million for Native American projects in Arizona from 2001 through 2005.

Removing barriers for homeownership in Native American communities presents unique challenges. Rural development has partnered with other agencies and tribes to provide housing and services. As a result, rural development has provided hundreds of Native American families with clean, safe, affordable housing.

One of the strengths of rural development is the power to create individual strategies for success within the general structure of the national agency. Abraham Lincoln called the Department of Agriculture the "People's Department." Rural development is working hard to ensure that reaches even the most remote pockets of our Native American populations.

I, too, will be glad to answer questions at the appropriate moment. I would like to introduce the staff who are with me, and acknowledge them in the hearing record. Lewis Shirley is the man

making all these travels. He is here with me today. I also have my Native American coordinator, Don Irby, and my Housing Program Director, Ernie Wetherbee.

[The prepared statement of Mr. Browning can be found on page 106 of the appendix.]

Mr. RENZI. Thank you all for coming. Mr. Browning, I want to thank you for your work, more so for the outreach that you've shown in going out on Indian country. I'm grateful.

Mr. Anspach, it's good to have you with us today and I look forward to your testimony.

STATEMENT OF ALLEN ANSPACH, REGIONAL DIRECTOR FOR THE WESTERN REGION, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. ANSPACH. Chairman Ney and Congressman Renzi, thank you for the opportunity to represent the Bureau. My name is Allen Anspach, and I am the Western Regional Director from the Bureau's Phoenix office. I've held that position since May of this year, and Bureau Director Risedale asked me to come forth and represent the Bureau today.

I do have with me Arch Wells, who is our Acting Director of Trust in Washington D.C. I believe the committee has made his acquaintance previously. He has the overall national direction of our program. I also have with me Stan Webb, who is our realty officer at the Western Regional Office. Stan knows a lot about the leasing processes, and I have Donna Paigler with me who runs the Land Title and Records Office out of our Albuquerque office. She has working knowledge on what we're trying to accomplish. So I may ask them, depending on the nature of the questions that come up, for some technical assistance.

It is a pleasure to be here. I thank Jamie Fullmer, the chairman, for his hospitality, and it's great to see all the other elected officials from throughout our region and from other regions. It shows the depth of the interest and concern on the issues that we're faced with.

As far as background information, in general the Bureau of Indian Affairs does play a critical role in removing obstacles to building homes on the reservations. We have as a result been working closely with the Department of Housing and Urban Development and the USDA Rural Development folks to streamline and expedite production of our title status reports.

I'll begin by providing some background information on the current process and procedures that we use for doing title status reports, and then comment on the process. As you probably know, the Bureau has land title and record offices located within eight of its regions. That's in Anchorage, Alaska; Muskogee, Oklahoma; Aberdeen, South Dakota; Portland, Oregon; Sacramento, California; Billings, Montana; Anadarko, Oklahoma; and Albuquerque, New Mexico.

Each of these offices is responsible for recording all title and encumbrance documents for Indian lands within their respective regions and issuing the TSR's to provide records of ownership.

The title status report is a compilation of the current ownership, legal description and recorded liens and encumbrances on the des-

ignated parcel of land. The production of TSR's for mortgages is our LTRO office's top priority. We do strongly support these programs to help housing on Indian lands.

Now, the current procedure requires that all requests for TSR's for mortgages first go to the agency superintendent at the relevant BIA office, or through the regional director on behalf of tribal members where allotted land is involved. The certified title report is required by the lending institution to verify that the loan applicant has acquired a leasehold interest since they can't have full ownership unless it is allotted land.

There are very few differences in the TSR process from location to location. When there are, often these differences are dictated by the particular lending institution or the Federal agency providing the loan.

Over the years, we have found that some offices have provided an uncertified title status report showing the mortgage as an encumbrance to the property in lieu of the certified report. On April 13, 2005, the BIA issued a directive requiring that all land title and record offices provide certified title status reports when requested by the agency superintendent or a regional director.

BIA has qualified and dedicated personnel at our land title and record offices that do examine the certified land titles and produce TSR's. However, we are the sole source for Indian trust land records. Because trust land records are to a degree confidential, lending institutions and other Federal lenders are completely dependent upon the Bureau for all certified TSR's, thus creating a significant and important workload.

Since the inception of the Federal loan programs, the mortgage request for certified titles have been a high priority for the LTRO's. We have made significant changes in our title program over the past 3 years aimed at improving our ability to deliver accurate and timely title status reports.

One of the improvements to the BIA title system is a recently-completed conversion to the Trust Asset and Accounting Management System, affectionately called "TAAMS," for processing titles at all LTRO program offices. The system has greatly improved our ability to provide title information to tribes and Indian people. The quality of the data has been significantly improving.

We're still doing comprehensive data clean-up which has been coordinated with the deployment schedule for the TAAMS leasing module. The leasing module is planned to be completed by November of 2007.

The BIA process for providing title status reports upon request within a 30-day timeframe for the regions has been reasonably effective and efficient in the past, but will improve substantially in the future. In August of 2006, the BIA will begin implementation of the new TAAMS functional component, the TAAMS Image Repository.

The objective of the repository is to store all documents affecting and concerning titles to Indian trust and restricted lands. In addition to deeds, probate orders, leases, easements, and other title documents, the repository will also store TSR's and will be the primary mechanism for delivery of TSR's. The repository will also be

the primary mechanism for submission of title documents for recording at the LTRO.

With the completion of this clean-up and title data maintained in an up-to-date status, TSR's will be processed upon request and deliver electronically to the requesting office immediately upon completion and certification. This modernized process will reduce the time from TSR request to TSR delivery from weeks and days, to hours and minutes. A substantial improvement.

On September 29, 2005, the Director of the BIA issued an interim policy on the certified TSR's. The policy requires TSR's to be issued for each pending realty transaction that is requested by the superintendent or regional director who has jurisdiction over the lands within 30 days.

Mr. RENZI. Wrap it up, please.

Mr. Anspach. Okay. In summary, there are several steps that we are taking to address the issues. They are not all resolved at this time, but we look forward to assisting the committee in reaching a resolution. Thank you.

[The prepared statement of Mr. Anspach can be found on page 116 of the appendix.]

Mr. RENZI. Thank you. We appreciate your testimony, the whole panel. I appreciate you being here. Mr. Chairman, we open it up to you for questions.

Chairman NEY. Thank you, Mr. Chairman. I wanted to make an observation to HUD, and we appreciate your working with Secretary Jackson and HUD on a lot of these issues, and we've worked also with HUD on—and FEMA in cross reference between the two on Katrina, and we actually—our subcommittee was the first to have a hearing in New Orleans and also Gulf Port, Mississippi.

One thing you might want to take a look at, and I'm not saying you can comment on this today or solve it, but manufactured housing—and I mentioned this because, yes, I know in the disasters, FEMA controls manufactured housing. I'm fully aware they make the orders, etc., but we've been finding, too, when there was no certain amount of requests for manufactured housing, we have manufactured housing sitting in Arkansas—9,900 units are sitting there.

Now the U.S. Government is going to have to spend $7 million dollars on gravel because they're going to sink, and so we've got them behind a fence. We recently have had a situation where new manufactured housing which we were told at first there was no new manufactured housing was going to go on sale in Selma, Alabama, and it would have went probably for a song on a public market.

We found out there was new manufactured housing, so they stopped that part of it. I also understand that manufactured housing, sometimes when it's been used, but there's maybe a need for $2,000 worth of repair to it, it's then deemed to be used manufacturing housing when it's relatively new.

Having said this, I just throw this out as food for thought and I've talked to HUD about this. As we know, in different parts of the United States, that this—these manufactured housing units are sitting there, and if the manufacturers produce these, which right now we're going to get an answer out of FEMA of how much these go on sale for once they're new—in other words, they could be pur-

chased for $50,000 by the Government, and then turned around and sold quite cheaper, and that's the price we're trying to determine what they're sold for. So they're bought normally for $50,000. The U.S. Government buys them in bulk for $23,000, and maybe sometimes they are sold for $9- or $10,000.

Having said all that, the point of what I'm trying to get to is I think it behooves HUD and the Congress working with FEMA to work down the road about some of these units that aren't used and why couldn't they be used for housing in the Indian Nation, and it could be such a reduced discount price for a manufactured housing units.

I'm not talking about travel trailers. I'm talking about—right down below my house we have 75 manufactured housing units in a manufactured housing park. We used to call them trailer courts, but these are—and I have nothing against trailer courts. Where I come from, we have trailer courts and they're accepted. But these are manufactured housing units. These are pretty decent units. Some are two stories tall.

I was just wondering if you—has there ever been exploration as to how we could acquire some of those units, buy them in bulk, and offer them to Native Americans?

Mr. CABRERA. Mr. Chairman, as it happens, the answer—I can give you the answer now.

Chairman NEY. We didn't plan this.

Mr. CABRERA. No. This is pretty funny. We are thinking very similarly. I spoke to Director Paulson a week-and-a-half ago about this issue. He went back and found out whether there would be willingness of FEMA to do this, and the answer is yes. That is the initial issue.

There are issues with doing it that have nothing to do with the actual availability of the units, which I'll discuss with you and your staff later on, but I didn't know about the units in Selma until you just mentioned them, and the issue with the used housing, as far as FEMA is concerned, has been up to now that they've taken the housing and tried to reapportion breaking up bulk.

Units that were in Florida after the storms in 2004, to Katrina victims. So the real focus of our question was the units that are in Hope, Arkansas, at the airport and trying to figure out if we could—if those would be available stock for those who might want them.

So my short answer is yes, we actually have plans to acquire some of those.

Chairman NEY. Also, for beyond—with the Hope, Arkansas, my frustration is that those units are sitting there. They could be taken down to New Orleans. Because Gulf Port, Mississippi, received 20,000 of the travel trailers, just got hooked up. People were repairing their property. New Orleans only had 2,000-some, which is not your problem. This was a FEMA thing.

So I'm not saying we take the Hope, Arkansas units away if people want them in New Orleans. New Orleans is a whole different world of problems why we in part can't get those down there, because there's been 50 million tons removed in debris. There are 63 million more. There is a question of where it could be put, toxic problems with the land, a whole set of different issues.

But moving down the road past Katrina, because we want to help those victims, obviously, first, if they want housing, but down the road, if the U.S. Government can buy these and then store them, walking past Katrina and any other disasters in Florida or Mississippi, it does behoove us—and I'm glad you're looking into exploring about the buying in bulk and the ability to help people across the country, but in particular, the Indian Nation.

Is there any way—I think we could continue to work on together on that, and the price could be—buying in bulk by the Government could be so reduced, to offer something that, you know, maybe even a half of the original cost.

Mr. CABRERA. Well, all I know is there is a technical issue that I would love to discuss with you later, but the other issue is we want to make sure there is demand for this. Some folks don't want to live in manufactured housing, and it's an issue, and others do, and we want to make sure we have an idea of what the demands would be.

Chairman NEY. I understand. I saw the traditional hogan, the traditional Navajo housing that they had, and to some people, you know, across the United States, manufactured housing has been debatable, but for those who would want it, and it would not have to be forced upon them, I think it's worth exploring.

Mr. Chairman, the second question I had was for Mr. Browning, just a brief answer. How can a mortgage lender determine whether its mortgage lien will be valid and enforceable under existing tribal law?

Mr. BROWNING. I'm going to defer to my Native American housing coordinator.

Chairman NEY. First of all, state your name for the record.

Mr. IRBY. I'm Don Irby. Chairman Ney, Chairman Renzi, the situation under—would be based on any of the reservations. We have to first get the legal documents, the leases, and have them reviewed by our general counsel to see if it is something that we can take a lien on, that it can be enforced.

One of the issues that we have run into on generally all of the reservations, is that they want us to foreclose through tribal court, and that has been an issue with our legal counsel in regards to that, but they generally want us to either foreclose through Federal court or have a Federal judge foreclose through tribal court, and those are the primary issues that we have had to deal with in regard to the trust land.

Chairman NEY. Where would—has it been decided where the legal jurisdiction would be; tribal court, Federal court, or is that the issue?

Mr. IRBY. That's the issue.

Chairman NEY. Have there been any court cases on that to clarify, or do you know?

Mr. IRBY. At the present time we're trying to—our counsel for the Navajo Nation has advised us to try to solicit for an attorney that will foreclose through Navajo Nation courts.

Chairman NEY. Thank you. Mr. Chairman, if you would indulge me and thank you for your patience. My last question is for Mr. Anspach. In the memorandum of understanding among the Departments of Agriculture and HUD, and the BIA, dating from Sep-

tember of 2004, the BIA committed to use its best efforts to prepare a title status report within 30 days, and on July 17th, which I mentioned earlier, 2004, Arizona field hearing and at least last years Washington, D.C., hearing in July, the BIA committed to having the automated system that BIA pulled in use by 2006.

And, of course, it's 2006, and so I'm going to assume that the system is up and running to meet the goals of preparing faster TSR's, or did something happen?

Mr. ANSPACH. Mr. Chairman, if I may, I'm going to ask Arch Wells, our technical person, to respond to that.

Mr. WELLS. I won't say I'm technical, but, yes, the TAAMS system, the one that Allen Anspach noted earlier, is in place and it has made getting TSR's easier. The companion system to it, which will make things even easier, is the repository, that is hooked to that, and that is when you populate all the LTRO's, and that should be in place the end of this year. We just got the security clearances on it 2½ years ago, I believe.

So that would give you actual documentation on not just static data. It would actually allow you to view the documents on hand just like in a county records system.

So if an individual owned property in Mississippi, and they owned property in Arizona, you would be able to pull it up electronically and see those things, rather than trying to centralize the LTRO in Phoenix, for instance, because it's an electronic system.

Chairman NEY. Did the reorganization have anything to do with this, because there was the reorganization. There was BIA, OST and HUD. HUD was involved with activities under the housing. HUD, USDA, and BIA partnered. Wasn't there a reorganization also that was taking place, and maybe it was internal.

Mr. WELLS. There was an internal reorganization of the Bureau of Indian Affairs where we took the administrative portion out of the functional portion on the ground portion, but, no, that doesn't have anything to do with this.

Chairman NEY. Okay.

Mr. WELLS. Quite frankly, one of the things that spurred along the repository was last years testimony, so I appreciate that.

Chairman NEY. Again, just to kind of get to the point, you know, when we had the—and I appreciate the efforts, and I think things just coasted for a lot of years, and Congressman Renzi's referred to that earlier, and I think it coasted a lot of years, and a lot of these problems were discovered and had been out there and just had not been addressed, and Congressman Renzi brought it to our attention, so I felt good in Washington in July of last year and it was to take 6 months.

I think you might have indicated to the Congress that it was going to take a little longer, but you say it's now complete or you're in the final—I'm trying to narrow it down again in a public hearing. When is this dog to going hunt, is what I'm saying?

Mr. WELLS. You're speaking my language.

Chairman NEY. And can catch the bird.

Mr. WELLS. Catching the bird is the difficult part. The dog is hunting right now. It is making it so that the customer and an individual who comes into the LTRO, can see the documentation, get

the TSR, just like you could in a county scenario or State scenario, and that's what we're attempting to get done.

In that effort, to that end, we have now restricted TSR's to just mortgages or land sales where there's more than two owners. We're not doing TSR's for grazing permits, timber sales, or a plethora of other things that we used to do TSR's for, so we've shortened that down where TSR's are only done where there's more than two owners.

We also have the endorsement in place, and recently we've kicked out the new endorsement that was spoken about in the testimony from Allen, and that's the one where we coordinated with HUD and BIA, and it should facilitate the needs of both HUD and BIA. So that one is out actually as of last week, so—let's see. What else.

The other improvement was that we're now accepting all of the environmental documentation of HUD. No longer do you have to go back through this bureaucratic red tape of getting another environmental document. We're now accepting each other's environmental documentation.

Chairman NEY. So any projections in 3 months from now, or in 4 months from now, how quickly will a person be able to go in and get all the information they need to be able to pursue their dream of a home?

Mr. WELLS. A projection, prediction, right now we're running on the standard case of 8 to 12 hours, and unless it's a very complicated issue, I'm hoping that we can get all of them to a 6- to 12-hour timeframe. That is getting all of the—that's pending getting all of the data cleaned-up, all of the documentation that we previously did not put into the LTRO that we're now required to put in the LTRO's for leasing purposes, getting that in, so that is the capital.

Chairman NEY. Thank you.

Mr. RENZI. Thank you. Tim, why don't you keep the microphone. This is what I want. I—this is what I feel and this is what I'm saying. First of all, you're a good man and a hard worker.

Mr. ANSPACH. I appreciate your testimony. Okay. You're underfunded. You're under-staffed. Congress hasn't given you the money to do it, hasn't given you the ability to do your job. You have a new system that you have invested how many millions—straight up, how many millions of dollars?

Mr. WELLS. I honestly don't have an accounting off the top of my head.

Mr. RENZI. Between two Americans, how much?

Mr. WELLS. Probably about $10 million.

Mr. RENZI. You have how many years invested in it?

Mr. WELLS. The TAAMS, 12 or 15 years.

Mr. RENZI. I believe, and it was stated today—Mr. Anspach, you said that you have a significant workload. I believe even though you streamlined what now doesn't go in to the TAAMS system, you still have a significant workload. I believe that the western tribes have a unique situation in having the ability to have their title searches done. They're all spread out.

I don't want my tribes, when they come to you to go 638, to have to run up against any kind of impediments that stop them from

being able to negotiate the 638 contracts. I want them out of the system.

I think it's better that I get my tribes out so you can have less of a workload because we're not giving you enough money to do a good job of getting it done. So when Jamie Fullmer comes to Washington, D.C., to negotiate 638, I want it to be streamlined. I want him—one of the best young leaders in the valley who understands housing, who just got 1,600 acres into trust—roughly 1,600 acres, I want him to be able to get it. Okay? It will help receive the system. It will.

Now, we know the system is going to move along and is getting better and we have people who are working on it. When we look at setting up and going through negotiations, who do they negotiate the 638 with? Will it be you, Arch, or who?

Mr. ANSPACH. Mr. Chairman, they will start at the local agency level down in Phoenix, and work up to the region. Since this is a title office issue, we don't have a title office in the western region. It's under the Albuquerque BIA office, so they would have to contact them.

The problem—one of the issues is going to be that Mr. Fullmer, using him as an example, will have some of the same issues that you just brought up as far as the funding available. If the BIA program is already struggling with staff and funding issues, as we fractionate and divide amongst our tribes, that's just going to be exacerbated unless more funding can somehow be brought in.

Mr. RENZI. I want to come up with the funding for them. I want to be careful here. You're still going to have a core group. You're going to have plenty of work, but as far as the Navajo, Yavapai-Apache, and San Carlos Apache goes, I have to come through with the money and start-up costs to get it up and running. You guys have to come through with helping me on how we best train, whether it's inter-tribal council or BIA personnel. It lends itself out west.

Now, how we work back east and how the other tribes have to do it, it's on their own, but we can't do it anymore. You can't—look, you can't be a young Navajo or an Apache, wanting—getting married and wanting your own home, and wait 2 years. You can't do it. You can't do it. It kills you.

We're getting the reports out of Apache Dawn, which we're going to hear some testimony on, about what's coming out of that community. These young Apaches are going in to have their own private homeownership. Their math scores are going up. Their English scores are going up. We're seeing a reduction in battered and abused women because they own their own home. A sense of community.

So we've got to move, and we've got to get it done, and we've got the ability now for the Federal Government not to act as the sole arbitrator over entrepreneurship and prosperity and homeownership in the community. That's one more way to say to tribes, "You've got it. Here's how we do it. Here is a system that works. We're here for you, but you guys have to do it."

It needs to be in many other areas, too, but this is how I want it. I know, Arch, we talked. We have to go this way. Okay.

Go ahead, sir. You feel like you want to say something. You want to finish my speech. Go ahead.

Mr. ANSPACH. Not at all, Congressman. You're doing quite well. I don't think you would hear any argument from the Bureau. We want it to succeed. We want the tribes to succeed, but our job is to give them the tools so that they can.

Mr. RENZI. Well, those tools include—those tools, in my opinion, right now, and I know these leaders that were in front of you want 638. We're going to go there. You continue to go on TAAMS. I'm not go to rip you on it. I know what you have invested in it. I do not want the Washington bureaucrats under you, Arch. I want them to be able to get 638.

Orlando, when you look at the amount of money that we have that relates to loan guarantees under our Section 184, if a Native American is living off of the reservation in Minneapolis, or in Hollywood, Florida, you know the scenario, they go into the program and they gain—they can take those funds if you can guarantee their houses off of the reservation. Right?

Mr. CABRERA. Absolutely.

Mr. RENZI. But that house collateralized and that house has the underlying land which has the appreciated value. Why is it that you're having to use 184 houses off the reservation? Doesn't it draw down from the pot that I have to use on the reservation?

Mr. CABRERA. No. Section 184 is a tool to improve the liquidity of the mortgages. If you can think about—the issue in real estate lending and the lenders who will come after this panel will, I hope, reflect what I'm about to say, that the whole market is driven by the concept of liquidity, the ability to sell a mortgage in the market such that the buyer and the seller are comfortable with what's known about that mortgage, either in terms of the credit worthiness of the person who is borrowing, the nature of the real estate, any number of factors.

One of those factors is the ability to guarantee that the title that is securing the mortgage, is capturable by the bank in the event that something goes sideways.

Mr. RENZI. Right.

Mr. CABRERA. 184 says, "Bank, you don't need to worry about that because we're offering a 100-percent guarantee of that mortgage such that you don't have a liquidity concern. You can take this risk and not be concerned that if this goes sideways you're going to be out of the money."

Mr. RENZI. I'm with you on that, but if I'm off the reservation, aren't there other instruments that would be better used because the 184 really was meant to be on the reservation for the absolute guarantee. See, I'm on the reservation and that land is held in trust, so, therefore, there's no—I have no interest in the land. I only have it in the actual building, itself, which depreciates, actually.

So what I'm saying is, by using the Section 184 off the reservation, I have less funds available for on the reservation.

Mr. CABRERA. No, because Section 184 doesn't attach to the issue of the dirt. That would assume that the dirt is somehow what you're trying to protect. You're not. You're trying to protect the fi-

nancial instrument of the note and the mortgage that are together. So it has nothing to do with where the dirt is.

If you were to restrict that program to only tribal lands, as it was at one point, what you will do is limit the ability to use it and put fewer homeowners in homes.

Mr. RENZI. I want to look at that. Am I drawing down on the possibility of it?

Mr. CABRERA. No, because the way that Congress or that you have appropriated this, is the amount of money that guarantees the maximum amount of credit. So, therefore, what you are doing is you are insuring—you're insuring within a bandwidth that the credit market is comfortable with, a default rate, and so you're saying here is what we're doing and you can now leverage that money.

Actually, assuming that the President's proposal were taken, you would be able to leverage it to $250 million, and so what you're saying is we're good with issuing mortgages up to that amount.

Mr. RENZI. Right. That was a good point. You remember we weren't using that whole pot of money. Do you remember rescinding about $40 million?

Mr. CABRERA. Not under 184. I don't believe that you've had a rescission in that.

Mr. RENZI. We had this discussion.

Mr. CABRERA. It was a combination of 184 and Title VI that you rescinded, and I think a few years back you rescinded about $80 million, but that was because at that point in time there was no—and if you could forgive the term—quantum mass in the program. Back then you had far fewer loans being underwritten than you do right now.

Currently, what we've got are 835 loans being underwritten in this fiscal year. The volume has skyrocketed.

Mr. RENZI. So there will be no more—Congress allocated money. The money wasn't used, but you've been able to change that under your watch, and I appreciate it. There's such an increase now in applications, increase in counseling, in going out and showing our Native Americans how to access the program, and that's why we don't turn back money?

Mr. CABRERA. Well, I think there are several reasons. Those are two, and to add, I think part of it is marketing, and what I truly think is if you have a lending community that is more comfortable knowing that you have title that they can rely upon, they're much more willing to lend to the markets.

Whereas if you have a lending community that is uncertain of the titles or that title is stagnant or that title is questionable, they're not going to be very willing to lend at all.

Mr. RENZI. How do I reach the same level of comfort when I deal with financing in infrastructure?

Mr. CABRERA. Because in infrastructure you're applying—

Mr. RENZI. How do I?

Mr. CABRERA. I know. I'm sorry. An infrastructure is a very different world. You're not dealing with liquidity issues. You're dealing with basically the underwriting of a particular project. If you can think about it in another way, it's what is the economic viability of whatever it is I'm going to be doing, be it water and sewer capacity, be it roads, whatever, and so when you look at something

like infrastructure, that is typically a larger ticket in the marketplace, and that gets underwritten much more strictly, and much more intensely than homes do.

Homes at this point are for all intents and purposes the biggest investment in the United States, not in terms of people buying them; in terms of everybody investing in the mortgage markets and the mortgage-backed security market. So it's a different equation.

How do you do it? It's very hard to do. A lot of that is basically faith in the financial markets, that whatever the deal that you're doing makes sense. That means getting investment bankers to agree with you.

Mr. RENZI. So I get the lending community to come in and believe in a project. Jamie is getting ready to build 50 homes. He has to extend the electricity, the sewer, the water, and the gas. They lend based on the fact that the tribe has to stand up and provide the collateral, maybe non-traditional collateral.

Do you, Jamie, have to put up a financial bond? Jamie, how did you get your guys to lend not to infrastructure?

Mr. FULLMER. The infrastructure that the Yavapai-Apache Nation has done, we've done with direct loans to the bank, but that's based on our good standing credit.

Mr. RENZI. So you have to go to the lender and you secure your own revenues—or the Nation has to stand as the collateral versus the project.

Mr. FULLMER. That's correct.

Mr. RENZI. So if I have a tribe that doesn't have liquidity or isn't in a position that you guys are in now, they're at a total disadvantage.

Mr. CABRERA. Could I answer your question another way?

Mr. RENZI. Go ahead.

Mr. CABRERA. The Title VI—I'm going to rephrase your question.

Mr. RENZI. Okay.

Mr. CABRERA. How do you sell the Title VI program in a better way; is that a fair rephrasing?

Mr. RENZI. Yes, sir.

Mr. CABRERA. The way that we typically do it when we speak to the stakeholder community is to say the following: You have a 95-percent guarantee in terms of the debt that you underwrite, and so, therefore, your risk is very small. It is more worthwhile for you to undertake the program and do whatever you're going to do, because you have—you have a guarantee of the Federal Government behind your risk that is going to decrease the amount—the cost of the money that you will have to borrow, and so, therefore, please, please, please, please, please, please, please, please go do it.

Mr. RENZI. So that is what is said to the lender, the Federal Government would stand in and be your guarantor up to 95 percent.

Mr. CABRERA. Right.

Mr. RENZI. And those funds are also being accessed and we're not—do you try to back those funds?

Mr. CABRERA. Yeah. It's being utilized, and I can't—right now I'm having a brain block, and I can't remember the exact figures, but it's truly come a long way from where it was.

Mr. RENZI. What is the impediment to the Title VI money?

Mr. CABRERA. The biggest impediment to the Title VI money is faith within the stakeholder community in terms of using it. The actual ability to get the money out there is not a problem, but people don't like debt as a general rule, and when they see that, they get worried about repaying that debt.

So what we've tried to do is promote the idea that this is guaranteed money that accomplishes—it is essentially two things—three things. It gets you the money you need for infrastructure; it puts minimum risk in your pocket; and, finally, and most importantly, it is the least cost money. It is the cheapest money because the Federal Government is backing it.

Mr. RENZI. Thank you. I'm grateful. We'll get there.

Ed, thank you for coming out. You guys do a great job out there. Jamie talked about the fact that the services had been reduced on many of the reservation lands, talking about the fact that there was a part-time office, not your office, but some of the other offices.

You have been able to maintain staff and you have been able to grow through outreach. Your model, I think, acts as a model for counseling, and for technical assistance, and has been phenomenal.

Not all the same—not all of your peer agencies have been able to keep that up. How have you been able to do it? Is the funding in place to do it for you, or are you using it out of your hide, or where is it coming from?

Mr. BROWNING. Well, thank you for the compliment. Our funding has been fairly stable for the salaries and our S and E budgets and expenses. We just fought long and hard. There is a lot of need out here and we within rural development we have done a little bit of negotiating with our counterparts across the country. There are some States, we think, who had more FTE's than other States, and so we quite frankly went in and had our blood bath and determined whether there was a methodology that redistributes some of the distributed FTE's. We started down that path, which got me a few more FTP's. So we've been fortunate that way.

Our big slices and dices came actually before I got here in 1993 when they split up the agencies, and there's been—this is my opinion, is that it used to be—you know, I hear the stories of the old timers talking about the work that was being done, that they had eight or nine people to do this work.

Well, in my opinion, from the private sector at that time looking at it, I probably thought that was way too many. Well, the pendulum kind of swung back the other way where all of a sudden we've got three or four people trying to do the work that eight or nine people used to do; that's really not enough.

So we're trying to get that pendulum—we're trying to get somewhere in the middle, and that would allow us to move forward.

There has been a lot of talk here today, and I want to add this to it. As we listen to our tribal reps talk this morning, they talked about two really major issues, and they talked about the trust land and we've talked about that a lot today. The other thing they talked about was the income and economic development, and I just think if we're going to talk about housing, we're going to talk about infrastructure, we have got to find methodologies to help raise the income of the tribal people on all the reservations.

The Yavapai-Apache Tribe has done a wonderful job. What a great tour we had this morning. If you look at some of the things that went on there, their tribal members have had pretty decent jobs over the years. That's not to say there is not some poverty here. I don't know the tribe quite well enough to say that, but when you're looking at other tribes where you're talking about $7,300 a year, we have to find a way to bring that level up.

I want to share one story with you. On the Navajo Nation, a couple of years ago, we got a request for a grant to do a feasibility study for a ram exchange. I thought, what is a ram exchange? Well, we're talking about sheep and upgrading their sheep facilities, and so over some time, we upgraded the rams, and helped them build a facility, and when I went for the grand opening of the facility and the pickups started rolling in and people had their wool in the back, and as they told the stories, they said that they used to take their wool to the trading post, and when they did that, they got 8 cents a pound.

Because now they're working together and they have sort of a mini co-op, and the Navajo Nation brought a semi and they loaded all of the wool together with like 100 different growers and shipped it to, I believe, Roswell, New Mexico, where they got 85 cents. I thought my goodness, what a difference.

Those are the kinds of stories that we want to continue to work with, and I really believe that entrepreneurship is something that our agency has a chance to help with, and so down the road when you're looking at bills, there will be an opportunity to say that we need to support some of this business development stuff that some of the different agencies are doing. To me, that is a huge key to success.

If we solved all of the trust land issues tomorrow, and we could do titles just like that, how many more houses would be built? I don't know. They would jump for a little while, but if credit and low income is a real issue, we have to solve that problem at the same time.

Mr. RENZI. That is the exact argument I had, is if you look at how you absolutely have to build equity, how do Native Americans become millionaires on their own reservation? The first thing is, if we can get them from not leaving so they're spending their own money on the reservation, rather than it being in a sink hole and having to leave.

Right now, if you're Apache, you want to go down in Cottonwood and build a house, own equity, and borrow against the equity, and then you want to come on the reservation and build your own business, because that's the only way right now to have any kind of equity and have any kind of real true income, would be to own your own business.

So business site leasing, along with the residential site leasing, and providing and letting the tribe have that authority themselves, is a way to unlock that entrepreneurial spirit and unlock equity.

Mr. BROWNING. I think the program and the processes they're starting to do with certified Chapters and being able to go back to local control, I think that opens some doors that we've never seen for a long time, just to allow that. I think you used the example, if somebody wants to put in a Denny's, it's been very difficult in

the past. That will allow entrepreneurship to development and to grow.

And I think, you know, which comes first, the chicken or the egg. Well, we've got a start, and that is a great start, and I applaud the Nation for being able to move forward on that. I think it opens some opportunities for us at rural development.

Mr. RENZI. Thank you, very much. I thank this panel very, very much. Mr. Chairman.

Chairman NEY. Indulge me just for a second. An issue got raised. I just wanted to ask Mr. Cabrera. Be candid. The 184 program; aren't the numbers successful because the money is being lent to people off the reservation and that makes the program more successful? I mean, Congressman Renzi asked the question a couple of times. Did it take away—and I understand the point of his question. Doesn't it take away from the money if you're lending to people off the reservation, and you said no, it doesn't hurt the overall money, but the numbers will look better for the—for that program if it is being lent off the reservation because it's easier to lend it off the reservation.

Doesn't that make the numbers look better when it comes to the money being lent on the reservation where the numbers may not be as healthy?

Mr. CABRERA. I think it depends on where we are, because I think in Arizona, most of the money is being lent on reservation lands or on allotted lands, but in other places, I know for a fact—in south Florida is a great example. Most of that is in the Hollywood area, and that's because the Miccosukee. They have their lands smack dab in the middle of Broward County's developed area.

My short answer is that I don't know, but my sense—my instinct is to say probably not. I think it's a matter of policy. It's a better thing to have more homeowners who are Native American, than not, and I worry much less about where the land is, and I worry much more about Native Americans having their own homes, and so that's really where our focus is.

And, by the way, if I may be indulged, I was terribly remiss and I didn't introduce my Deputy Secretary, Roger Boyd, who is behind me, and has also helped out.

Mr. RENZI. Thank you.

Chairman NEY. My final—if I could, we were with the chairman today. I believe that this tribe has taken a balanced approach. We saw an ingenious—the water treatment plant is portable. It can be moved, if they have to, as they're building more and more housing. I see a balanced approach. They're cleaning off some land, according to the chairman, for housing, and also putting in the progressive look, the idea of the business part of it. I can't remember what you called that, chairman, but the—it was a strip— that is going to be a retail strip, which it was the way to think, because you're approaching it at two angles, but what I gathered from the chairman today, and I believe also from Congressman Renzi, it is also the importance of housing component.

And, Mr. Browning, I think you hit to the point of it, because it is kind of a Catch-22. Developing the business side of this is important for the jobs. For example, down in New Orleans when we went

down there, Congresswoman Maxine Waters and I stopped at a restaurant and we asked them how things were going, and they said, "We could hire 175 more people right now; we need them to open the remaining three restaurants," and we said, "Why don't you do it," and they said, "Because there's no place for them to live."

So when you look at the situation, yes, developing that business site is important so people can go up the economic ladder. The only problem is—and this is why I see it as a Catch-22. If we don't develop the housing side, one of the problems out here is—in Ohio, for example, in certain parts of Ohio you can get a 4,600 square foot home for $279,000 on an acre of ground. I'm using real examples. A 1958 home on an acre of ground, three bedrooms, for $61,000.

Now, we've lost manufacturing jobs, steel jobs. China is just taking us apart. Our jobs are lost and our people are hurting, and I'm not saying they aren't, but part of the problem I think you have out here is the price. I mean, you've got poor people, but the prices are—I mean, who could live in certain areas here because of the price.

So the economic side, yes, it is important, but if we don't move aggressively, which is what the chairman wants to do, and I know President Shirley and others want to do, if we don't move aggressively to take away the barriers to get these titles, then the economic side may come fourth, and that's great to be able to provide those jobs, but people in the Indian Nation aren't going to be able to afford—they will have to live 40 miles away to drive here, and that barrier is still a huge chicken-egg Catch-22.

So I agree with the twofold approach, but, boy, if we don't get aggressive, which we—the Congressman has and others, to get that barrier away from this title situation, then I'm afraid that the affordable housing end of it will be something beyond their reach.

Mr. RENZI. I want to thank this panel—

Mr. CABRERA. Mr. Chairman, if I might, I want to answer for Chairman Ney. Roger has just provided it. If we were to take out Oklahoma and we were to take out Alaska, Oklahoma because it's Indian land that is in trust, Alaska because it's corporation lands, so those numbers would actually inflate the number I will give you.

Fifty-two percent of lower 48 on trust lands—sorry—the 184 program is insuring mortgages. Fifty-two percent of the mortgages insured are on trust land in the lower 48. So, again, assuming that you were to include Oklahoma and include the Alaskan incorporation, that number would necessarily go up.

So my answer is, I think, that they're pretty solid numbers either way.

Mr. RENZI. Thank you. I want to thank this panel for your expertise and for traveling. I do want to say to you that I will be requesting in about 6 to 7 months another hearing on this issue and on other issues that are acting as impediments to homeownership. I will be asking for it in Washington. After that, 6 or 7 months, I will be asking Chairwoman Kitcheyan to host the next one down in San Carlos. After that, I will be asking for another hearing in Washington, D.C., a true pain, I know, but I look forward to drilling in on this issue. Thank you so much for coming.

We will go to our third panel. We'll take a 5-minute break and come back with the third panel.

[Recess]

Mr. RENZI. Thank you so much for staying here with us. We move into our final round and I'm grateful. Panel three consists of Steven Barbier, with Consultant III, Neighborhood Reinvestment Corporation doing business as Neighborworks America; Chester Carl, CEO, Navajo Housing Authority; Pattye Green, senior business manager, Federal National Mortgage Association; Edward D. Hellewell, senior vice president and senior underwriting counsel, Stewart Title Guaranty Company; Marty Shuravloff, chairman, National American Indian Housing Council; and Tim Simons, assistant vice president, Federal Home Loan Bank of San Francisco, and my friend, Larry Parks, is also here, and he is also with the Federal Home Loan Bank of San Francisco. They've done wonderful stuff in Indian country which I look forward to hearing about today.

This is the part of the panel that has to do with industry. We've heard from our Native leaders. We've heard from the people in Washington and the people who deal with it with the Federal agencies. Now we are going to hear from industry who really plays a vital role in making sure the funding and breaking through all the bureaucracy.

So I look forward to that and, Steven, we'll start with you. Go ahead.

STATEMENT OF STEVEN BARBIER, MANAGEMENT CONSULTANT III, NEIGHBORHOOD REINVESTMENT CORPORATION DOING BUSINESS AS NEIGHBORWORKS AMERICA

Mr. BARBIER. Good afternoon, Congressman Renzi, and Chairman Ney. My thanks to the Yavapai-Apache Nation for hosting this hearing. My name is Steve Barbier, and I am a management consultant with Neighborhood Reinvestment Corporation which is doing business as NeighborWorks America.

I am here today to testify on behalf of NeighborWorks America with respect to our work on Native American issues. I will also discuss the strategies Neighborhood Reinvestment Corporation deploys to tackle homeownership barriers in Native American communities, including our role in launching a tribal land title and recordation office study.

NeighborWorks America evolved from a 1972 effort by the Federal Home Loan Bank to increase thrift-industry lending in declining neighborhoods. NeighborWorks America, a public non-profit corporation, was chartered by Congress in the Housing and Community Development Amendments of 1978. NeighborWorks America's involvement with local housing and community development organizations, supports residents, businesses, and local governments in their efforts to revitalize their communities.

For nearly 30 years, the NeighborWorks System, which includes 240 community-based non-profit organizations active in more than 4,400 communities, has proven to be an increasingly effective and efficient vehicle for leveraging significant private-sector resources in support of community revitalization and affordable-housing efforts.

I'd like to thank the committee for its support of NeighborWorks America. For more information on NeighborWorks America, please refer to the written testimony.

I would like to now speak about our efforts with Native Americans. By December 2008, 500 Native American community development practitioners will have attended the Wells Fargo Native Community Development Training Program at the NeighborWorks Training Institution, taking classes developed specifically for Native communities, with subject areas of homebuyer education, financial fitness, organizational development, leveraging resources, and affordable housing development.

We currently have a number of NeighborWorks organizations that have developed partnerships with tribes to promote homeownership. We began in 1995, when the reinvestment corporation was invited by the Navajo Nation to assist in the creation of a nonprofit organization that could focus on mortgage-based homeownership opportunities to Navajo families.

With the assistance and support of their many partners, including the Navajo Housing Authority, the Navajo Partnership for Housing has assisted 225 Navajo families into homeownership for a total investment of $20.6 million. The unfortunate news is that it should have been many more.

According to NPH, the average time from the day a Navajo family walks in the door and applies for homeownership assistance, to the date of loan closing, is still about 24 months. In addition to that timeframe, it takes an additional 6 to 8 months to receive the final TSR showing recording of the lien with the BIA.

NPH reports that there have been some improvements at the title plant level and that the large part of those delays rest at the agency level.

Mr. Chairman, I would like to commend you and the subcommittee for focusing on the important issue of expediting TSR's for Indian land. As you know, the ability to obtain clear title to secure financing for homeownership and economic development projects is essential in today's financial marketplace.

NeighborWorks America and many other entities including tribal governments, lenders, Federal and State agencies, and other local and national intermediaries have been committed for many years, along with the members of this committee, to improving homeownership and economic development opportunities in Native communities. We have dedicated time and resources to improving homebuyer readiness, designing innovative mortgage loan products, identifying sources of down-payment and closing cost assistance, and developing affordable housing stock.

Mr. Chairman, based on our experience working with Native communities, NeighborWorks America and many of our partners have identified the need to expedite the TSR process as a priority issue. Accordingly, we have set aside seed money to initiate a more comprehensive analysis of the options and considerations for tribes that wish to assume their own title functions, rather than rely exclusively on the BIA. Last month, we convened a group comprised of Indian land and financing experts at the Pueblo of Santa Ana, just north of Albuquerque, New Mexico, to determine how we can assist in this area.

During the 2-day meeting, we consulted with representatives from tribal government who have already undertaken some of these steps, and we discussed what information might be helpful to compile and disseminate more broadly to tribal governments.

One of the outcomes of this meeting was to launch a tribal land title and recordation office study. We are pleased that the National Congress of American Indians and First Nations Development Institute have agreed to co-direct the study, and they are in the process of developing their research strategy now. The purpose of the study is to provide tribes with a range of options to expedite land title processing that would strengthen sovereignty and promote economic development. It will examine the economics of managing LTRO functions and address operational issues such as cost feasibility, necessary administrative and staffing capacity, and technology requirements.

We are anticipating that the preliminary results will be available over the next 6 to 12 months, and we would be happy to share our findings along the way in order to contribute to the legislative process where appropriate.

The efforts underway with the memo of understanding between the BIA, HUD, and USDA to streamline the mortgage lending process on Indian trust land is commendable. However, this is only part of the solution. NeighborWorks America and our partners on the LTRO study committee urge Congress to enhance tribal governments' authority to manage all or a portion of their own tribal land title functions and to provide adequate resources for tribes to be able to assume these functions from the BIA.

Mr. Chairman, this committee has aggressively pursued actions to improve affordable housing opportunities for all Americans. We hope that you will continue to tackle this issue of improving the TSR process on Indian trust land which will go a long way to furthering homeownership and other economic development opportunities for Native Americans.

We appreciate the opportunity to testify in this important topic, and I would be happy to answer any questions you may have.

Mr. RENZI. Thank you, Mr. Barbier. Great job.

[The prepared statement of Mr. Barbier can be found on page 119 of the appendix.]

Mr. RENZI. Mr. Chester Carl.

STATEMENT OF CHESTER CARL, CEO, NAVAJO HOUSING AUTHORITY

Mr. CARL. Good afternoon, Mr. Chairman, and thank you for the opportunity to testify before this committee. You have assembled a distinguished group of witnesses, and they have done well. I would personally like to thank you, Chairman Ney and Ranking Member Frank, as well as my good friend, Congressman Renzi, not only for this hearing, but also for your continuing efforts to behalf of Native families.

The elaborate, complicated and confusing system under which we operate on trust land is the result of centuries of different policies, some well-intentioned, some designed to "integrate" Indian people and others that were meant to destroy our way of life.

The fact that this committee continues to hold hearings, that you and your staff continue to ask questions, and more importantly demand answers, is a testament to your desire to make real changes, and I both applaud and thank you for that.

This also is a true motivation; I believe it's working very well. In the last two hearings we talked about the challenges we faced. Today we have heard further testimony about the barriers to homeownership. Some of these barriers are real and they're not the first barriers we have to overcome.

For years we were told that private lending on our reservation land was impossible because of the trust status of the land, that it cannot be alienated and, therefore, it has no value. But I believe the original Native American Housing Assistance Self-determination Act, which changed the length of lease on trust land from 25 to 50 years, made that important step.

It was also argued at the time that at a 50-year lease would be make Indian country more appealing to lenders because the leasehold interest would have value even at the very end of the 30-year mortgage, but like so many other improvements and changes in law, this change did not cause a stampede of lenders to Indian country. The fact is that we at the Navajo Housing Authority are still now forced to carry a lot of the mortgage to make this reality come true.

I think we also provided information here at this hearing that the community land use plan, because that authority invested about $5 million in NAHASDA funds, is now starting to work with local empowerment, and also some of the information that I believe Chairman Fullmer provided was a testament to some of the progress we've made with NAHASDA, and those opportunities, I believe, are working, not only locally here with the State of Arizona, but one of those opportunities is with the tribal CFI funds that we now start to implement which will provide infrastructure lending to the Native community, as well.

This is one of the important advancements that we've made, starting with NAHASDA which continues to move forward. NAHASDA itself was meant to be a boon for homeownership in Indian country. Finally tribes could make homeownership a priority. Tribes could create and operate their own homeownership program; and training and credit counseling programs could create innovative new down-payment assistance programs and tailor programs to fit their communities, but that did not happen. Even after subsequent amendments that created economic development demonstration authority, the promise of NAHASDA in the area of homeownership has not been fulfilled.

In fact, in my Housing Authority, we believe that there are two other authorities that provide eligible activities, but we're restricted to activities found under 202, which basically restricts us to do programs for families under 80 percent median income.

With your amendment, Congressman Renzi, we were able to get program income which allowed other housing-related activity, and we failed to recognize that. We also have another amendment that is the fine in definition, and if you look at the report language, which also tailors economic development as part of that process, and HUD has failed to recognize that, as well.

So with that, despite the NAHASDA claims to provide similar authority be given to tribes in Public Law 93–638, the Act is not specific as to what that authority there should be, and, therefore, leaves a lot of interpretation up to staff at the Department of Housing and Urban Development.

The staff at HUD, like so many government employees, must walk a thin line between providing authority and flexibility to tribes, and operating a program that will not be criticized by watchdogs such as the Inspector General. Sometime this creates a degree of caution on the part of HUD, and this caution is the enemy of creativity, which was the underlying principle behind the creation of NAHASDA.

Your committee can address that problem when it reauthorizes NAHASDA next year by giving specific authority to the tribes so that HUD employees are not left to interpret what flexibility the Congress really meant to grant recipients of NAHASDA funds.

Even as we address the problems at HUD, we remain stymied by the system at the BIA, and we have heard of issues of the title status report. We have heard countless promises, reforms that have not been realized. So what I'd like to do at this time, Mr. Chairman, is basically provide an opportunity to make a recommendation and a proposal, and that is basically grants of $50,000 or $500,000 should be made to Indian tribes and Indian tribal organizations to develop a system that administers title recordation functions.

The purpose of the grants would include tribal legal and regulatory code development, developing facilities to maintain the records themselves, and the development of tribal judicial systems, but there are other ways in which Congress can change the very nature of the trust land that can be very beneficial. I know that any mention of changes in the status of trust law causes consternation for many tribes.

We all remember how the termination policies of the past decimated our communities, how land was lost and reservations were checkerboarded with much of the prime land being alienated from the tribes by swindlers and land agents. This must never happen again.

Nevertheless, we should try to find ways for the land BIA controls, for the land which we are part of, to have value because the value of this land can be a stepping stone not just to prosperity, but to the independence for our people. Attempts to replicate mortgage market on reservation land, for instance, have largely failed because the resale market, or more properly the re-lease market of the land is limited.

While the concept of land is different for Indian people, to succeed in an economic reality of land-based wealth, we must consider changing the way we look at trust land, although always with the goal of protecting the trust status. I propose we create a new kind of trust land called economic development trust land.

The use of land as collateral is fundamental to the development of both private businesses and mortgage lending. The purpose of economic development trust land is to allow land to be used for housing and economic development purposes as collateral and to

make the land transferable within a larger market without placing the land at risk of alienation.

The economic development of the trust land would never be alienated from Indian ownership, while the land leases could be controlled by individual tribes and leases themselves could change hands without the approval of BIA. The land would never leave the trust status. The only eligible leases would be to tribes themselves, tribal enterprises, or tribal members.

If the land is eligible for placement to economic development trust, these would be held in trust for individual and families, if they so choose, and the leases for economic development trust could be transferred by the controlling tribe without BIA approval, so long as the new lessee is a recognized tribe, tribal entity, or individual member of such recognized tribes.

The land would be under the authority of an Indian tribe for lease recordation, environmental assessment and approval, archaeological and historical preservation and protection, or for other general land restrictions.

I realize this is a bold concept and one that requires much study and consideration, but I believe that to make a real difference to in the lives of Indian people, we must take bold steps. We should not let another generation of young Indian families come of age in an environment and be devoid of the kinds of opportunities available elsewhere in this country without the opportunity for homeownership and all of the benefits that brings.

Again, I thank you for your ongoing commitment to these issues, and I look forward to working with this subcommittee, and will assist your efforts in any way I can.

Mr. RENZI. Thank you very much. That's creative. I look forward to exploring that with you.

[The prepared statement of Mr. Carl can be found on page 126 of the appendix.]

Mr. RENZI. Pattye, thank you for coming. It's always a pleasure. I appreciate you coming back. I think you've done this at least once before.

STATEMENT OF PATTYE GREEN, SENIOR BUSINESS MANAGER, FEDERAL NATIONAL MORTGAGE ASSOCIATION

Ms. GREEN. Yes. Thank you, Chairman Ney, and Chairman Renzi. My name is Pattye Green, and I am a senior business manager for Rural and Native American Initiatives with Fannie Mae. I have over 28 years of mortgage lending experience. Prior to coming to Fannie Mae, I was the director of the Homeless Finance Department for the Housing Authority of the Choctaw Nation, and I am a Choctaw tribal member myself.

I was honored to appear before the subcommittee in Tuba City and I am pleased to be here again today to discuss the issues affecting homeownership on tribal lands and to share with you the steps that Fannie Mae is taking to overcome the barriers. I have submitted a lengthy written statement, but today I will focus my oral remarks on the progress Fannie Mae has made since my last report to the subcommittee 2 years ago.

Fannie Mae's congressionally-granted mission to create affordable housing opportunities for Native American families living on

tribal lands is one of the toughest challenges we face. You already know the facts. Almost half of Indian households pay more than 30 percent of their income for housing expenses, compared to 23 percent of all households in the United States, and as a result, the homeownership rate on reservations is 41 percent, well below the national average of approximately 68 percent.

Let me tell you about what my company has done to put more Indian families in their own homes. There is some good news. Because of the Mashantucket Pequot Land Assignment Law we helped enact, we can now address the legal issues of tribal sovereignty in tribal court jurisdictions. The intent of the law is to give tribal members greater rights in tribal lands than afforded by traditional land leases, and at the same time be more efficient and less bureaucratic.

An assignment of tribal land gives the tribal member the right to use, occupy, develop, and exercise control over the specified parcel of land subject to certain limitations established by the tribe. The assignment is perpetual in nature, unlike a land lease which has a maximum 50-year term. An assignment can be mortgaged.

Furthermore, the assignment process is more streamlined in language. The assignment process does not require BIA approval for each individual assignment. Once the BIA approves the entire assignment area, which it did for a section of the Pequot Reservation, the tribe can make assignments for individual parcels from the assignment area without further Government review.

In addition, the BIA does not have to approve each assignment mortgage as it would each lease mortgage. Under the law, the BIA can now approve the entire assignment area for home development. Fannie Mae can now create opportunities for tribal members to own their homes without needing BIA approval for every mortgage on an individual basis.

I would like to briefly describe Fannie Mae's three-prong approach to expanding affordable housing on tribal lands. First, with the new law we rolled up our sleeves and worked to make homeownership happen on the Pequot Reservation. We worked with tribal leaders to bring in developers, lenders, counselors, title and mortgage insurers, and the other stakeholders necessary to make homeownership possible.

The current phase of new construction on the Pequot Reservation has meant that almost 100 Pequot families are in the process of purchasing their own newly-constructed home.

Secondly, we want to reproduce our success with the Pequot. We're standardizing the model for use by other tribes. We have just finished an extensive amount of legal work to produce the procedures, forms and other materials necessary to make homeownership happen for tribes throughout the country.

Third, and most importantly, Fannie Mae is not going to just sit back; we want to get on the road and bring our expertise wherever it is needed. Members of the Pequot Tribe are ready to join me and my Fannie Mae colleagues to share our success with any tribe looking to expand homeownership for its members throughout the country across the west as far as we need to go.

There are other also great successes with issues returning to the treatment of tribal and land tribal records being experienced on the

Salish and Kootenai Tribes in Montana and the Saginaw Chippewa Tribe in Michigan. In fact, I'm leaving here today to travel to Michigan to meet with representatives of the Saginaw Chippewa Tribe and a harbor project to discuss the outstanding work the tribe has done with their land title and records office.

Helping other tribes across the country learn from these efforts will be a Fannie Mae priority in the years ahead. Fannie Mae is currently partnering, as Steve stated a while ago, with NeighborWorks America, leaders from our Native American tribes, including the Navajo Nation, representatives from HUD, the Bureau of Indian Affairs, the National Congress of American Indians, the National American Indian Housing Council, and other leaders of non-profits, title insurance leaders and other lender communities to develop a model strategy to help more Native Americans address critical land title and recordation issues.

To institutionalize Fannie Mae's commitment to Indian housing, in January we established a new business unit dedicated to providing affordable housing in the most distressed tribal and rural areas of the country. We've seen some results. We currently have relationships with more than 112 lenders who make loans to Native Americans on tribal lands.

Since 2001, Fannie Mae has helped our lender partners serve over 8,535 Native American families to provide more than $839 million in affordable mortgages, financing on tribal lands. Nationwide, Fannie Mae has invested over $160 million in low-income housing tax credits, over $51 million in HUD Title VI loans, and over $1½ million in additional financing to support the construction and rehabilitation of units on tribal lands since 2001, but there's still much more for us to do.

I hope that with these comments and our experience with the Pequot, Fannie Mae has begun to make progress expanding homeownership for Native Americans. We will continue to listen closely to Indian country leaders and to build long-term partnerships and work diligently to address the tough housing and economic challenges facing Native American communities today.

Thank you, and I'd be happy to answer any questions.

[The prepared statement of Ms. Green can be found on page 131 of the appendix.]

Mr. RENZI. Thank you for coming. Mr. Hellewell.

STATEMENT OF EDWARD D. HELLEWELL, SENIOR VICE PRESIDENT AND SENIOR UNDERWRITING COUNSEL, STEWART TITLE GUARANTY COMPANY, STEWART LEGAL SERVICES

Mr. HELLEWELL. Thank you. Chairman Ney, Congressman Renzi, thank you for inviting the American Land Title Association to testify today on removing barriers to homeownership for Native Americans. My name is Ed Hellewell, and I am a senior vice-president and senior underwriting counsel for Stewart. I have 30 years experience in real estate and the title insurance industry. My involvement in Indian country began in late 1994, into early 1995 and continues today. I am pleased to appear today on behalf of the American Land Title Association.

The American Land Title Association, founded in 1907, is a national trade association representing more than 3000 title insur-

ance companies, title agents, independent abstracters, title searchers, and attorneys.

With more than 8,000 offices throughout the United States, ALTA members provide services including title searches, examinations, and insurance protecting real property owners and mortgage lenders against losses from defects in titles. ALTA members employ well over 100,000 individuals and operate in every county and parish in the country.

The core of the business of ALTA members is search and examination of title to land and interests in land to determine insurability and conditions of insurability in closing transactions. It is that perspective as a small cog in a larger Native American homeownership process that I hope to bring to the table today.

The title insurance industry is currently helping to provide housing opportunities for Native Americans. My company several years ago with Fannie Mae developed modified American Land Title Association policies that have specific application to trust land as well as a separate model for allotment land that we use today and have used as a template for all of the Indian country transactions.

But like others here today, while appreciating the progress made to date, we are hopeful that improvements can be made to increase these opportunities.

Today, title insurance availability supports the option of conventional mortgage for homesite purchases in purchases in Indian country. For example, Fannie Mae's Native American Conventional Loan Initiative requires a title insurance policy; title insurance is required by some USDA rural development guaranteed loans; and title insurance is required by HUD for the Section 184 guaranteed loan program—encumbering assignment interests.

In addition, ALTA member title and abstractor agents also close loans, acting as escrow agents only for government guaranteed loans. And 184 loans outside of Indian lands are typically closed by ALTA members and title policies are utilized in that situation.

But the common thread that runs through the process of both Government guaranteed loans and conventional market loans, is the requirement for title information about the land and the interest in the land held by the borrower. That thread takes interested parties, except in the case of assignment interests, to the LTRO's and the production of title status reports.

Subsequent to the July 2005 hearing that included testimony about the production of TSR's, we had an opportunity to discuss and consult with representatives of HUD, USDA, and on one occasion with BIA, possible solutions to these issues. As we understand it, certified title status reports require a search and examination of the records beginning with the establishment of the specific Indian land or reservation and then brought forward to the current date. Several certified TSR's might be requested during a transaction process.

The problem is that each search goes clear back to the beginning of the reservation. Therefore, a solution that was suggested during those discussions was to use the standard practice followed outside of Indian country, as well as by some BIA LTRO's, and the Colville and I believe the Salish Kootenai. And that practice is to down-

date the title from the date of the last certified TSR or the last TSR or title report in your file. It simply makes sense.

Ultimately, the September 29, 2005, memorandum announced an interim policy which adopted a form endorsement to the certified TSR, and adopted that practice. As I understood the interim policy, it was intended to reduce the workload and backlog at the LTRO. It was thought that would result in quicker production of title information needed by lenders, Federal agencies, and title insurers. By reducing the time required for title search and examination by BIA, the timely production of title information would increase homeownership opportunities and options, as well as increase the number of tribe members who benefit. Obviously a desirable goal. However, this interim policy and accompanying endorsement form did not appear to have been implemented uniformly.

The recently revised draft form that has been developed by HUD and BIA after additional discussion appears to improve the form and the process and supports the intent of the original September 29, 2005, memo. We were pleased to contribute to this effort and anticipate assisting with the planned educational efforts designed to increase understanding and aid in implementation of the revised endorsement form and the interim policy.

There are success stories in Indian country. Several of them have been discussed today. One is the Colville Reservation process. Another is the Salish Kootenai. Another is taking place with the Saginaw Chippewa Tribe in Michigan. That tribe built a title plant to serve the tribe's land title needs with the ultimate goal of compacting with BIA for the LTRO title functions. Hundreds of conventional loans have been made and insured to date with conditional reliance upon that plant.

Another promising project was undertaken by the Winnebago Tribe of Nebraska that resulted in financing for a planned community subdivision utilizing a conventional loan, bonds, and title insurance.

Steve earlier mentioned the initiative to support a tribal land title and recordation study. I think the value of that study will be to include funding and personnel issues that would be needed to be committed for such a project, and we're pleased to be a part of that study.

Another option that has also been discussed is the use of land assignments. This involves a creation of a tribal office to record land assignments and the issuance of title insurance. Such a program utilizing procedures and processes similar to a county recorder's office will be acceptable to most title insurers and will accelerate the development of most homeownership.

As another suggestion for improving the title information process, Chester Carl mentioned this also, and it may require passing Federal legislation, would be to allow private industry title examiners to examine Indian titles as is done outside of Indian country. A manpower savings would result to the BIA and might expedite the production of title information and homesite mortgages. Currently, as I understand it, as Federal documents the Indian land title records are not available to the public, as they are in the case of county or parish land records.

Another measure for improving the TSR process or eliminating barriers is the proposed operating guidelines or standards that BIA has indicated would be completed after the proposed leasing regulations are finished. But, the key to having standards and guidelines is for the actual implementation and application of those principles.

Mr. RENZI. Close for me.

Mr. HELLEWELL. Okay. I would note that we have had some excellent experiences with BIA. Most of them are capable, competent, and courteous. Obviously, they don't have complete control over their staffing and task assignments. But, lastly, I would note that homeownership is a step, and that has been noted as a step ultimately for the accumulation of wealth and value. Recently we undertook to insure a development of a shopping center in Tuba City, which I think is some indication of such a step. It's a small start.

In conclusion, the ALTA and its members are committed to assist in removing barriers. We will continue to work with interested Indian country parties and government agencies to develop solutions and options. Thank you for this opportunity.

Mr. RENZI. Thank you so very much. I'm grateful.

[The prepared statement of Mr. Hellewell can be found on page 137 of the appendix.]

Mr. RENZI. Marty, I look forward to hearing your testimony. Thank you for coming all the way. I appreciate it.

STATEMENT OF MARTY SHURAVLOFF, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. SHURAVLOFF. Good afternoon, Chairman Ney, Congressman Renzi, and distinguished members of the subcommittee. I want to thank you for the opportunity to be here to discuss the obstacles to homeownership and ways that we can work together to eliminate them. My name is Marty Shuravloff, and I'm the recently-elected chairman of the National American Indian Housing Council, the oldest and largest Indian housing organization in the Nation, representing the housing programs of more than 460 tribes. I'm an enrolled member of the Leisnoi Village in Alaska and serve as executive director of the Kodiak Island Housing Authority.

I want to first thank you, Congressman Renzi, for the many years of active support to the Native American people. The NAIHC appreciates the subcommittee convening this hearing and its focus on homeownership, which, of course, is a big priority for us. A study conducted in 2000 by the First Nations Development Institute estimated that there were 38,000 qualified potential homebuyers on the reservation. While the study is now 6 years old, I am confident that the bulk of the 38,000 tribal members and the additional qualified potential homebuyers since that estimate was made have not succeeded in realizing the American Dream.

In 1993, Congress approved the Omnibus Budget Reconciliation Act which included both an Indian wage and health care credit and an accelerated depreciation provision for property and physical infrastructure placed in service on Indian lands. These twin tax provisions seek to raise investment on Indian lands and encourage Federal taxpayers to hire and retain Indian employees. The incen-

tives expired on December 31, 2005, and we hope Congress will reauthorize these.

One of the biggest obstacles to homeownership on Indian lands is that tribal lands are held by the United States in trust for the tribes, and are not available for use as collateral or to securitize a home loan. Some tribes are developing creative solutions to this problem such as the use of leases with terms of 99 years or longer and use of assignment law which authorizes tribes to assign the land to a potential homebuyer.

Under this model, trust land is divided into parcels by the tribe and assigned to tribal members, thus putting the tribe in control of the land title process.

It is clear that the BIA cannot on a consistent basis, and across the 13 BIA regions, provide the kind of timely and effective responses to requests for TSR's that are vitally important to home financing and, therefore, to Native homeownership. This problem is structural and stymies the delivery of mortgage loan products to Indian lands, preventing homeownership from taking place where it is needed most.

I do not have to tell the subcommittee that this kind of non-feasance by the BIA will not be tolerated by private lenders who frankly, can and do walk away from lending opportunities on Indian lands. In fact, we have just heard that a major national lender and another bank serving tribes have both discontinued their 184 lending programs.

NAIHC applauds the subcommittee for its multi-year focus on the TSR problem. We are also heartened to know that Congressman Renzi and others are developing proposals to remedy the TSR problem.

If Congress were to authorize and encourage Indian tribes to contract and manage the TSR function, I believe that many tribes would take advantage of the opportunity.

Another option was put forth by one of the private banks serving Indian communities. It suggested the BIA return to its previous practice of offering informational TSR's which, while not certified, would allow lenders to move ahead with processing the mortgage without undue delay. This procedure has been adopted and is now accepted for loans made under Section 184.

A major focus of NAIHC training and technical assistance is in helping tribes promote homeownership among their members, especially those living on reservations. The NAIHC's homebuyer education program, called Pathways Home, trains hundreds of tribal staff each year who, in turn, counsel tribal members on the reservation on the homebuying process. Since 1998, the NAIHC has also provided training to tribes on the home mortgage process.

NAIHC has developed another new seminar in the homebuyer arena to assist the tribal members for an individual development accounts as one way to save their scarce dollars for the down-payment on a home or closing cost. This October, NAIHC will hold it's first full conference on IDA in Denver.

Also, since 1998, NAIHC has worked with private lending institutions to break down structural barriers to homeownership through our new mortgage partnership committee. The committee

is focused on anti-predatory lending, mortgage training and overcoming barriers to lending on Native lands.

And, finally, next month NAIHC will launch an exciting new initiative, a Web site designed for Native people seeking more information and guidance on the homebuying and homeownership process. I hope you will visit our Web site and give us feedback.

I want to assure the subcommittee and you, Mr. Chairman and Congressman Renzi, that NAIHC remains dedicated to making homeownership the rule and not the exception in Native communities and pledges our commitment to work with you to help make that happen.

I thank you for the opportunity to be here today and would be happy to answer any questions you may have.

[The prepared statement of Mr. Shuravloff can be found on page 142 of the appendix.]

Mr. RENZI. Great. Thank you for that testimony, and thank you so much for coming all the way from Alaska to be with us. We appreciate your leadership.

Tim, we move to you. Thank you for coming from California, and also for the work you guys have already done in my district. I look forward to hearing from you.

STATEMENT OF TIMOTHY L. SIMONS, ASSISTANT VICE PRESIDENT, FEDERAL HOME LOAN BANK OF SAN FRANCISCO

Mr. SIMONS. Thank you, Chairman Ney, and Congressman Renzi. My name is Tim Simons, and I am an assistant vice president for legislative and regulatory 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 Support 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.

Since the subcommittee's hearing in Tuba City 2 years ago, progress has been made in providing more resources for decent, safe, and affordable housing on Native American lands. It should be noted that Federal involvement has been enhanced by the passage of Congressman Renzi's bill, the Native American Housing Enhancement Act of 2005.

This Act provides tribes with greater access to new funds and more flexibility when developing housing improvement projects. This and other public and private efforts needs to be expanded in order to provide housing and vibrant communities for Native Americans.

The Federal Home Loan Bank System plays a key role in providing funds for housing finance. The U.S. Congress created the cooperatively-owned Federal Home Loan Banks System in 1932, providing liquidity for mortgages that might otherwise be illiquid. We provide this in the form of advances. Advances are needed because these loans generally do not meet underwriting criteria of the secondary market.

As of the end of 2005, the Home Loan Bank System had over $600 billion in advances. Of that, San Francisco Bank alone represented over a quarter of the activity.

I spent some time talking about the advances because, without that business, there would be no AHP. There would also be no AHP if, in 1989, Congressman Frank and others did not create this program.

The Affordable Housing Program, also known as AHP, is funded by 10 percent of the net income of the banks. For the San Francisco Bank, this income is disproportionate and comes from advances. By working through its member banks, the Affordable Housing Program provides debt financing for low-income housing.

To date, the Federal Home Loan Bank System has awarded over $2 billion dollars in AHP subsidies, helping to create more than 430,000 housing units for low-income families. The AHP program is the largest private source of grant funds for affordable housing development in the country. In 2005 alone, the San Francisco Bank awarded over $40 million in AHP funds in two rounds of funding. In 2006, the San Francisco Bank awarded over $23 million in its first round.

The recent winner on Native American lands are the Bee Hoogan Shelter Foundation in Kaibeto. Washington Mutual and the Bee Hoogan Foundation came together to build twenty three, four and five-bedroom homes for very low and low-income families in the Kaibeto Chapter of the Navajo Reservation. Currently there is a waiting list of over 30 families for this project.

AHP funding of $280,000 will assist families in closing and down-payment assistance. This project comes online in June of 2007. The Federal Home Loan Bank of San Francisco supports services provided on Native American land such as the National American Indian Housing Council. The bank has demonstrated support by providing sponsorships and targeted training at the Council's national conferences.

Funding on Native American lands, historically has not been without difficulties. The San Francisco Bank has experienced issues in the past with funding projects on Native American lands, primarily because of the unique legal ownership status. However, the bank's regulator, the Federal Housing Finance Board, clarified that mechanisms other than a lien on property could be used to secure the AHP repayment obligation. The San Francisco Bank's ability to continue this innovative approach, could be impeded by impending regulatory actions.

The proposal of increasing retained earnings could discourage home loan bank membership and thereby reducing AHP funding. Over 1000 letters were sent in against this proposed regulation, including the chairman and ranking members of this committee. The San Francisco Bank will continue to seek changes to the proposal to safeguard the bank's core business and AHP program.

We look forward to continuing participation in efforts to address the issues of Native American housing. I appreciate the opportunity to participate in this hearing on behalf of the San Francisco Bank. Thank you.

[The prepared statement of Mr. Simons can be found on page 146 of the appendix.]

Mr. RENZI. Thank you, very much. I appreciate your testimony and your insight. The good people of Kaibeto and the other communities in Arizona also appreciate you guys really getting out in front. You also get my respect.

We're going to open it up for questions to Chairman Ney. Thank you, Mr. Chairman.

Chairman NEY. Thank you, Mr. Chairman. The first question I have is for Mr. Barbier. You mentioned the same dilemma you heard over and over. It takes 2 years to get a clearance of title. Do you have any cases that go faster than that, or in general is it 2 years? One year? What is the average.

Mr. BARBIER. We received reports just last week that there was one case that went through in 7 months from the time the homebuyer—prospective homebuyer walked into the door and the time they closed their loan. That was a record. That was exceptional.

Chairman NEY. Seven months? So—now, some of the things we heard today the BIA and others say, that, you know, it's the gone quicker in some cases. The—one gentleman was still here. They had—apparently they were doing their own work, but you're saying for the people that you deal with, the individuals you deal with, that 7 months is the quickest.

Mr. BARBIER. That's the quickest we've seen on the Navajo Nation.

Chairman NEY. The other question I had was, Mr. Hellewell, you said that the common thread of the journey runs through the process of the Government guaranteeing the loans, and the requirement of the title information about the land and the interest in the land held by the borrower. This is probably kind of a dumb question, but something in that I've really never inquired. But isn't it a case in history that we know who owns this land and the case history is there. What makes it so complicated that case history can't be provided? We know who owns the land. Do you have any thoughts on that?

Mr. HELLEWELL. I suppose it is a matter of practical experience. Often title insurance claim reports are opened because somebody will come forward and claim that they own the subject land, or an interest in the land. The reason for the title examination and the title searching is to confirm that the parties claiming an interest do, in fact, have the interest that they claim. Typically in Indian country, it's pretty clear who the vested owners are because the process is so methodical. But we've had cases where somebody applied for a mortgage and said that they owned the land; this happened in South Dakota, and the TSR came back and, in fact, it was not owned by the man applying for the mortgage. It was owned by another member of his family, but the applicant was claiming that he owned it; there was a family dispute.

Chairman NEY. But that happens even on the outside. I'm just saying within—a lot of the land is in trust where it's documented that it is owned by the Indian Nation. A lot of that is a known factor, isn't it, within the BIA?

Mr. HELLEWELL. I agree that it's known, but it is a matter of getting the documentation into a forum where somebody on behalf of the title insurer can see it and read it and know that it exists. From the title insurer's perspective, before we can issue a title in-

surance policy, we have to have something that shows, in fact, who holds the interest. It's more complicated if you're in an allotment situation and you have a lot of fractionated interests. Title insurers want a clear statement of ownership in every case. Probates also play a role. If somebody who is in that chain of title dies, then the interested parties have to probate that estate for anyone to know who now has the decedent's interest. So it's not just absolutely clear, and certainly like any other land interest, their interests can change, whether it's a leasehold interest or an allotment. So title insurers see changes, some unrecorded and not disclosed, and have to anticipate those possible changes and corrections in the ownership interest of every land parcel at the time of a transaction.

So the title status report, whether or not it's certified, uncertified, or how you obtain it, is still a critical part of the process.

Chairman NEY. Thank you, and my other question is for Mr. Shuravloff. Thank you for all your work you've done, Counsel. I'm looking forward down the road to looking into some of the ideas you might have for the insurance problem that you mentioned.

I'm just curious. What do you think about the testimony today about the issue we raised that, you know, last July 17th we wanted this to progress, and BIA gave testimony to the U.S. House that it would take 8 months longer. I mean, it's such an important thing to have the ability of people not to wait 2 years or 2 months for this.

Do you have any thoughts about how that system is coming along, as you might have heard today in testimony?

Mr. SHURAVLOFF. Well, Mr. Chairman, of course, I wasn't here last year and I don't have the experience of knowing what was said back then, but what I'm understanding today, there are areas in the country that the BIA does a fairly good job, and I think as we probably heard today, that they're overworked and understaffed in some areas, but the simple reality still is we've got a lot of families out there who need to get into housing and get into it as soon as possible.

I think that we've heard some testimony of some potential ways to get that accomplished, and I'm hoping that we can move forward in looking into some different directions on how to get our Indian people into housing as quick as possible.

Chairman NEY. Good observation. Mr. Chairman, my last question would be for Mr. Carl. This is something that is kind of new, I think, from what I've heard. You saying that despite the fact that NAHASDA claims to be—provide similar authority, that given the tribe on Public Law 93–638, the Act is not specific enough in what that authority should be, and, therefore, leaving such interpretations up to the staff of the Department of Housing and Urban Development. And then you said they had to walk a thin line between the authority flexibility and also dealing with the Inspector General.

Do you think there are some things internally then within HUD that make it difficult to walk that thin line? And I'm just curious how the Inspector General plays into that.

Mr. CARL. Mr. Chairman, let me illustrate by this example. We're doing a community development project on the Navajo Res-

ervation, very similar to Chairman Fullmer. It includes an economic development corridor, and we're looking at this development as a sustainable community using tourism as a destination point. So all the funds for this development could come from tourism; resort center, golf course, and this type of thing.

So when HUD came in and did a review, again this is an example, on my travel records they found this project called Chaca Trails, so they started asking questions, and I said, "Well, this one has—you're planning a golf course," right, and, "You're planning a water plant here to support your development," that becomes an ineligible activity because it's not an affordable activity.

So now they're going back and looking at their interpretation of what is in the statute and what we consider to be a sustainable community so families can have jobs and families can work somewhere and be able to make payments on the house which is going to be developed over time.

But those type of interpretations basically put us at a disadvantage, and what we see is that the HUD staff locally do not interpret the regulations to have internal control over how to interpret. Then the Inspectors General have to come down on their case and to be the watchdog to basically tell them that they're not doing their job correctly.

So that thin line that the HUD staff walks, makes our job even more complicated because that turns to oversight, and that was basically what I was trying to say. So there are provisions of the statute which we feel support economic development very clearly, and some of this is through the action of this committee.

When it comes to implementation, that is redirected the opposite way, and so in order to get past it, we need to get specific authority. In fact, there was demonstration of authority provided in the 2002 amendment which allowed the community development as part of the activity of Public Law 638 as part of the activity, was never implemented. The study was given back to the Congress, so we don't know what impact that study would have been.

Mr. RENZI. Thank you very much. I want to—Marty, you talked about the fact you said in your testimony the Section 184 lending, there was major lenders discontinuing that. Do you see a trend that way.

Mr. SHURAVLOFF. Yes, Congressman. With me I've got Gary Gordon, Executive Director of NAIHC. Maybe I can let him speak to that issue.

Mr. GORDON. We were just notified that—the bank is Washington Mutual, and they sent us a letter out that— actually, they're getting out of Government lending programs altogether, which include both the FHA and the VA programs, as well as the 184 program, and the smaller bank is American West Bank out of the Washington—the State of Washington.

Washington Mutual has argued that the Government programs represented a very small part of their overall business, and so they were going to focus on their primary products. However, I would suggest to the committee that those programs—those Government programs were established for a very specific purpose, to provide opportunities that would not otherwise exist, and I think to lose those programs would be very detrimental.

Mr. RENZI. Who do you leave it up to in the market to take care of it? Are you going to say, "Well, we're out," and leave it to somebody else to do?

Mr. SHURAVLOFF. Well, they suggested that they have other types of products that would fill the need, but I questioned whether that is true.

Mr. RENZI. On reservations? In Indian country, they have other products.

Mr. SHURAVLOFF. That's what their letter indicated, yes.

Mr. RENZI. Well, it's—you know, they'll move Congress to make it mandatory in their portfolio, and I'm not a big Government guy and hear me at my own words, but if everybody gets out of the business, then the Government will force them to be in the business, and I send that out to whoever is here from Washington Mutual, and I appreciate that.

Let me ask—

Mr. SHURAVLOFF. May I?

Mr. RENZI. Please go ahead.

Mr. SHURAVLOFF. I just want to add one thing, because I agree with you in terms of your comments. I think that program is vitally important, particularly in Indian country. I heard the questions this morning, too, in terms of the progress being made on tribal lands. That program was established primarily for people living on tribal lands because they didn't have the opportunity to get funding because lenders simply would not go in, and so their approval is absolutely necessary.

At the same time I do want to say that Washington Mutual, even though I'm saying this today, has been a very good supporter of Indian housing up to this point. They certainly have contributed to the NAIHC programs. They participated in that training. Bev Casper is one of the key people there, and has been very, very supportive, and I think she probably personally feels pretty badly about it.

Mr. RENZI. Well, I appreciate that. At the same time, this can't be left up to other people in the marketplace.

Ed, let me ask you this. When you were teaching us a little bit ago how you all—it's standard practice and procedure in title search history, to go back to the last certified title, and then move forward then to look for a cloud on the title. Is that correct?

Mr. HELLEWELL. Correct.

Mr. RENZI. And, yet, BIA will go back to the beginning of time and redo in many cases what has already been verified. Is that accurate.

Mr. HELLEWELL. That was their previous practice. The 2005 endorsement was supposed to change that. The most recently adopted endorsement that they worked out last week, is also supposed to change that practice. Instead of a certified TSR, they're going to come forward from the first certified TSR for the transaction and utilize that same down-date practice as utilized outside Indian country. Then they're going to issue an endorsement to be signed by—in some cases I think a Realty Officer in this most recent agreement so that they can produce title information quicker. So BIA has adopted that practice. That's a practice that exists outside of Indian country.

Your homes and my homes were all the subject of a title exam which was saved by the examining company and added to its database. That's how title companies develop a base file, and the title companies come forward from that. Title insurers and now BIA take the risk that there is something amiss with the previous examinations, but it will help reduce the problems with the time required to obtain title information.

The problem was that the 2005 memorandum is—at least it was our understanding that it was not being implemented, and some of the offices apparently didn't know about its implementation.

Mr. RENZI. Hold on a second. Arch, have you moved forward on that?

Mr. WELLS. It's moving forward, and the 2005 and the one that the gentleman spoke about just last week, those are being incorporated into all LTRO's in the regions, and in fact I have a meeting with them all on the 14th, 15th, and 16th to reinforce that.

Mr. HELLEWELL. If that's done, I think that will—

Mr. RENZI. That eliminated the backlog. That will accelerate it and eliminate the backlog.

Mr. WELLS. That, and reducing the items that we actually do TSR's on; family mortgages and land sales that involve more than two people. Forget the rest of them.

Mr. RENZI. That, plus taking the 638's out, here you go. I appreciate that. Thank you. I wanted to ask—Pattye, I was told—first of all, I want to thank you for your work—exceptional work, particularly the offer that you made in helping to train—I think you said that your experiences with Pequot Tribe, and the Pequots are willing to get on the road and help in training, and Jamie is president of the inter-tribal council of Arizona, which involves a majority of our tribes, and if we can get that kind of training, is that something we could export from the southeast.

Ms. GREEN. Now, on two different things. On the Pequot Tribe is the assignment where we streamline the process to get the loans done. That's the assignment where we don't have to do the groundlease mortgages.

Mr. RENZI. If Jamie and Kathy and Joe of the Navajo Nation, if they go 638, they're going to essentially have to set up a land title records office. Right? So we're not just talking about a setting up an office that does the title searches. They're going to do a lot of other things. Right.

Ms. GREEN. Right.

Mr. RENZI. Okay. Go ahead.

Ms. GREEN. We have other tribes. Saginaw Chippewa Tribe in Michigan is a tribe that is more than willing. They talked about wanting to work with other tribes and help them set up their land and title recordation office, and we have tribes more than willing to work with other tribes to set up their offices.

Mr. RENZI. Have any of the tribes that have begun to set it up, seen seed moneys that Steve was talking about? Are we talking about private money coming in from the lending—from outside the Federal Government to help with that, a public private partnership? Are we coming up with seed money to start it with.

Mr. BARBIER. My first reference to seed money had to do with the study, Congressman, and the study would consolidate—we heard

some great ideas on the table today, and the study would consolidate those ideas to provide a range of options for tribes to choose from, sort of a menu. Within each one of those options, there are a number of considerations; planned assignments, economic development trust.

The Salish and Colville both continue to rely on the TAAMS database, so they have essentially taken over the TAAMS database, and they're talking other options to that. A study would look at trying to flush out all of those options.

So in terms of seed money, the way Mr. Carl referred to the possibility of recognition of the start-up costs that would be required for a tribe moving to 638, some of that will come through the Bureau and some of it will need to—some of it will need to come from other places.

Mr. RENZI. Let me ask Arch. Do you need us—if we're going to provide start-up money for the tribes, do you need us to do it as specific—let me ask my staff. Is it as a specific line item we put in the budget for, or how would you prefer to see it?

Mr. WELLS. That's an emphatic yes. If you don't do that, it won't ever get there.

Mr. RENZI. It will just go in the general pot, so within your budget, we have to come up with a specific line item, funding of 638 programs for—

Mr. WELLS. For realty specific efforts. Realty LRTO's and title—

Mr. RENZI. And then once you see that line in our budget, Mr. Chairman, then the private industry will help match a little bit—or, not match—or also put some seed money in, too.

Mr. BARBIER. NeighborWorks America is putting up seed money to help launch this study, and we look to other private partners.

Mr. RENZI. Why are you studying this?

Mr. BARBIER. Well, I appreciate your call to action. I'm right there with you, but the—in our analysis of this, there are many considerations, and we've only had three or four tribes so far move forward with this out of 562.

They're very interested in what are the risks, what are the economic opportunities, how much is go it going to cost us?

Mr. RENZI. The study would be individualized, so if Jamie wanted a study to find out what his vulnerabilities might be, or would this be a national study?

Mr. BARBIER. The study is a national study. You take all these options that we talked about today, and put them in a menu for tribes to choose from.

Mr. RENZI. When are you doing the study.

Mr. BARBIER. Today.

Mr. RENZI. Starting after this?

Mr. BARBIER. Starting after this.

Mr. RENZI. When will the study be completed?

Mr. BARBIER. We're projecting we'll have some results in the next 6 to 12 months, and we would like to work with the legislative process to be feeding into as appropriate, some of your call to action.

Mr. RENZI. That's good. I want to drill in a little bit on the discussion. One of the things the team has been teaching me and the chairman talking to me in the beginning has said, is when we're

dealing in Indian Country, in order to be able to build a house, you all know we have to extend the electricity, we have to extend the power, the gas.

Kathy Kitcheyan spoke about the fact that she's got millions of acres, and just a small area of it can be developed. I want to ask Chester, if you don't mind, what can the Federal Government do? Where is the impediment that is holding up the first part of expanding homeownership on Indian country, which is the infrastructure expansion? What do we need to do to unlock that?

Mr. CARL. Let me push a plug for Arizona Finance Authority and the Fair Housing Commission and the Department of Indian Housing. In order to consolidate a lot of these, not only technical assistance, but having the ability to go after grants similar to Chairman Fullmer, we have developed a Arizona tribal CFI, and as part of that process—Chairman Fullmer is part of that board. As part of that process, it is a real critical element to providing infrastructure financing, is to make an application so simple.

Mr. RENZI. Where did you get the money from, Chester?

Mr. CARL. It comes from—there was a partial investment from the Arizona Finance Authority, the State of Arizona, and basically other investors as we moved forward.

Mr. RENZI. How big is the pot of money?

Mr. CARL. We're currently right around $5 million.

Mr. RENZI. So you have $5 million in State investment funds, and you have some money out here in—

Mr. CARL. Right, and so then we have somewhere around 37 tribes in the State of Arizona, and they have the opportunity to start their infrastructure development, even before—

Mr. RENZI. We're looking at Section VI money. How effective is it in helping to expand infrastructure?

Mr. CARL. Are you talking about Title VI money? The problem we run into with Title VI money is that it is still so tied into the affordable activities requirement, the environmental requirements that it imposes on you, sometimes it's not worth the effort.

You spend more time trying to weed through that bureaucratic process, administrative time, consultant time. By the time you're done, you spend a lot of time and effort trying to get through that application process, and the tribal CFI is totally opposite.

Mr. RENZI. Pattye, what are your thoughts on Section VI money.

Ms. GREEN. The CFI—I agree with Chester. The Title VI money, it's a good project that is out there. When I was at the tribe, the environmental issues that we had to go through to get the Title VI through, was very cumbersome, and the time—like Chester said, by the time you got through it, it wasn't worth it, and a lot of tribes are still very, very afraid of the debt. They're very afraid that it is going to tie up their NAHASDA dollars, and there are still education issues out there that tribes need to be educated on the Title VI issues, and it's guaranteed by HUD, but it is—it is hard for them to understand and—

Mr. RENZI. How do they pay it back?

Ms. GREEN. Well, they—

Mr. RENZI. The construction dollars that they borrow.

Ms. GREEN. The tribe has to pay it back.

Mr. RENZI. Through general revenue.

Ms. GREEN. General revenues. They have to—

Mr. RENZI. Does it get built into the mortgage at all?

Ms. GREEN. Yeah, it's built into the mortgage, and they pay back—the thing is if it goes into default, then it starts coming out of their yearly NAHASDA dollars, and that's what scares them. If something happens and they can't pay it back, they lose some of their NAHASDA dollars, and that's what frightens them. They're so afraid—they have to have the NAHASDA dollars to do any affordable housing project.

Mr. CARL. The application is very, very cumbersome.

Ms. GREEN. Very, very cumbersome.

Mr. RENZI. Should we streamline Title VI? Is that the answer.

Ms. GREEN. We're looking at options, and we haven't come up with the answer, yet, at Fannie Mae, but we're looking at other options of doing construction financing and—

Mr. RENZI. We want to work with you on that. That's the baseline and the foundation. How we would get to the next step of housing, is making sure we expand—we're putting $3 million a year into electrical renovation for expansion on Navajo and it's a drop in the bucket. It's not enough. We're not getting enough families at the end of the line each year.

Tim, you guys over at San Francisco did a great job on a project called Apache Dawn, in the Whiteriver. It was stalled. I think they were a half million dollars behind on the infrastructure. You all came in and you took a risk, and that infrastructure got completed we have 300 families now who have been over there for a couple of years now, and the statistics that I quoted in my opening remarks about family and mass boards going up and better relations within the community, a lot of it has to do with your involvement, and I appreciate that.

You talked about the affordable housing programs up in Kaibeto and Page where you've been working on the Navajo. Can you drill in on that up there, some of the successes up there in Kaibeto?

Mr. SIMONS. Sure. What they're doing up there is building some rather large family houses. I think it's 1100 or 1500 square feet, and there is actually a great backlog going on, but the goal is to make sure that lower income families are actually put into these houses.

Mr. RENZI. Yes. Larry, can you tell the audience about that project on Apache Dawn. I just want you all to hear quickly about a bank that took a risk and we have 300 families now in Whiteriver, and I want to hear this story real quick because it's a good way to finish up. Larry Parks from San Francisco Bank.

Mr. PARKS. I'm Larry Parks from San Francisco Bank. On the Apache Dawn situation, we had a couple of things going. One was in the alternative, we had people who had no title to the property, and we would take a lien and support that lien, and it was a cumbersome process and Congressman Renzi was very helpful in making that happen.

The second thing we were able to do is the Ace program and our Ace program allows a member to work with a non-profit group, but it was really about infrastructure growth and it basically got—they came and borrowed from us at cost, so it was using basically our

letter of credit to allow members to borrow from us at cost to begin improvement in the area.

Mr. RENZI. How do the tribes step up? What did the tribe have to do to make the—

Mr. PARKS. First of all, they work with the member bank.

Mr. RENZI. They work with the member bank.

Mr. PARKS. That's the first thing. The member bank comes to us and basically uses its authority to come to us for a letter of credit, but the tribes do more than anything else is we were able to work through the lienhold situation so the regulators would come through and see we were engaging in activity that is permissible. So that was the process where we worked through your office to make sure that actually happened.

Mr. RENZI. What did the tribe do to—what did they put up from a collateral standpoint to get your member?

Mr. PARKS. That's a good question. I think—well, once we got the lienhold situation straight with the land, they were actually able to use the land as part of the collateral, so it was a comfort level, the ability to build would result in active development of the land and, therefore, we create enough density to improve.

Mr. RENZI. In the land itself, the sovereign land.

Mr. PARKS. The sovereign land.

Mr. RENZI. Wow. You take sovereign land for a—

Mr. PARKS. Well, that's what our regulators said we're not going to do, but—

Mr. RENZI. So the tribe steps up and they put up their own credibility and their own sources of general revenues, and anything else, also, for the project itself.

Mr. PARKS. Right.

Mr. RENZI. Anyway, yeah. Chester, go ahead.

Mr. CARL. Congressman Renzi, the project over in Kaibeto, the San Francisco Home Bank involvement and also the Department of Housing for Arizona, we were able to build 11 additional homes out there. The project was funded by NAHASDA. Their involvement enabled us to build 11 additional homes.

Mr. RENZI. Because of the financing guarantee? I got you. Great stories. Thank you very much. Mr. Chairman, anything else?

Chairman NEY. Mr. Chairman, before you close, I wanted to—I know you have some staff here that you want to recognize. I want to thank our staff. Sitting in order, they were Cindy Chetti; Clinton Jones; Jeff Riley; and Tallman Johnson. They're from Washington, D.C., and once we finish up, they will go back and work on these issues. They have a lot of passion and a lot of years of experience, and they should wear t-shirts that say, "We're from the Government, and we're here to help." Well, we're from the Congress. This is bipartisan, both Democrat and Republican, and this issue of helping everybody in Indian country.

I just wanted to again re-stress Chairman Mike Oxley and Ranking Member Barney Frank, our Ranking Member of the Subcommittee, Maxine Waters, who are so passionate and caring and concerned for all these issues, and it is your impression if you see it in Washington—if you watch C-Span you don't think any of us talk to each other. We do, at least in the housing subcommittee, and last but not least, Congressman Renzi, whom I've learned a lot

from, he's a pit bull on the issues, and many other issues, and he does it with passion and sincerity. It has been a real pleasure.

I ran a freshman orientation when he came to Washington, and I see Members come and go, and when I ran a freshman orientation, I looked at him and I knew that day that he wasn't someone who needed 5 years on-the-job training.

Mr. RENZI. Mr. Chairman, thank you very much for bringing this subcommittee out here, for your support, and for the kindness that you've shown all people of this world who are reaching out trying to have a home of their own. I know where you come from. You've felt and you've seen it. The chairman flew all the way out here in the middle of his own election to be with us, and it's not easy to get people to come out in August when we're on recess, so it says a lot about Bob Ney.

Gold is man's commodity, and time is God's commodity, and for a man to give the minutes of a life that he's given for us, says a lot about this guy, and I'm grateful. I really am. Thank you.

With that, the Chair notes that some members may have additional questions for this panel which they may wish to submit in writing. Without objection, the hearing will remain open for 30 days for members to submit written questions to the witnesses and to place their responses in the record.

With that, Chairman Fullmer, thank you for your hospitality, and the hearing is closed.

[Whereupon, the hearing was adjourned.]

A P P E N D I X

July 31, 2006

Opening Statement of the Honorable Bob Ney
Chairman, Subcommittee on Housing and Community Opportunity

Hearing on

"Removing Barriers to Homeownership for Native Americans"

Monday, July 31, 2006

This morning the Subcommittee on Housing and Community Opportunity meets to discuss removing the barriers to homeownership for Native Americans and what can be done to improve homeownership opportunities on reservation lands. Today marks the second time the Housing Subcommittee has held a hearing on tribal lands.

There are an estimated 2.5 million Native Americans in the United States, making up 562 federally recognized tribes. While 1.7 million live outside tribal areas, more than three-quarters of a million Native Americans live on reservations and other tribal areas. This large population of Native Americans is often plagued with poverty, unemployment, and homelessness due to a lack of jobs and affordable housing.

This situation is partially due to the unique and, at times very complex, relationship that Native American Tribes have with the U.S. government. Native Americans living on reservations are U.S. citizens. Native American tribes, however, are recognized as domestic sovereign nations with treaty relationships with the government.

The Federal Government holds in trust approximately 56 million acres of trust land for tribes and Native Americans. Because this land has been taken into trust by the United States, specifically the Bureau of Indian Affairs (BIA), the legal title to land is also held in trust. Not having legal title means that, while the tribe is the beneficiary of the land, they do not have the right to sell, lease, or mortgage the trust land, nor can they lose it for failure to pay taxes. This creates a unique situation that causes lenders to be hesitant to invest and lend money to Native Americans wishing to own their own homes.

The lack of affordable housing for Native Americans has been exacerbated, in part, because of complicated land title issues and the amount of paperwork and time it takes to obtain a title to reservation land. The U.S. government has worked in recent years to improve housing opportunities on these reservations. For example, HUD has a variety of individual programs designed to assist Native Americans with their housing needs.

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

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 all continue to play a significant role in improving the quality of life for all families.

Statement of Congressman Rick Renzi
Subcommittee on Housing and Community Opportunity
Hearing--"Removing Barriers to Homeownership for Native Americans"
July 31, 2006

Mr. Chairman, thank you for holding today's hearing on "Removing Barriers to Homeownership for Native Americans." I welcome you and all of our invited witnesses and guests to the First District of Arizona and I look forward to hearing from the distinguished roster of witnesses on Native American homeownership issues.

I look forward to hearing the testimony of my friends from Arizona, including President Joe Shirley and Chester Carl of the Navajo Nation, Chairwoman Kathy Kitcheyan of the San Carlos Apache, and Chairman Jamie Fullmer of the Yavapai-Apache Nation. Thank you Chairman Fullmer for hosting today's event here in Camp Verde.

I also look forward to hearing the testimony of other experts in Indian housing, and I would specifically like to thank the HUD's Assistant Secretary for Public and Indian Housing, Orlando Cabrera, for making the trip from Washington to attend today's hearing and
Marty Shuravloff, the Chairman of the National American Indian Housing Council, for traveling all the way from Alaska for the hearing.

This is the third hearing on Native American housing that this Subcommittee has held in the past two-and-a-half years. The overriding theme in the past hearings and in the written testimony I've read for this hearing is the need for Title Search Reports to be completed in a timely manner by the Bureau of Indian Affairs.

We will hear from the BIA on this topic and from tribes that have taken over the title search process for themselves. I am eager to hear about their experiences and suggestions on what Congress should do to support tribes in establishing their own title processing offices.

The Subcommittee has organized what I think will be an informative hearing on Native American homeownership. Thank you again Chairman Ney for scheduling this hearing here with my friends at the Yavapai-Apache Nation, and thank you all for attending today.

Testimony of The Confederated Salish and Kootenai Tribes of the Flathead Reservation

"Removing Barriers to Homeownership for Native Americans"

Hearing of the House Subcommittee on Housing and Community Opportunity

Cliff Castle Convention Center, Camp Verde, Arizona

July 31, 2006

Good morning, Chairman Ney and members of the Subcommittee. On behalf of The Confederated Salish and Kootenai Tribes and our Tribal Chairman, the Honorable James Steele, Jr., it is my pleasure to deliver testimony on the issue of removing barriers to homeownership for Native Americans. My name is George DuCharme, I am an enrolled member of The Confederated Salish and Kootenai Tribes, I am the Director of the Land and Title Records Office (LTRO) for the Tribal Lands Department, and I have served in that capacity since December of 1996 when the Tribes compacted the title plant from the Bureau of Indian Affairs.

The Flathead Reservation is located in the Great State of Montana; the reservation comprises 1.3 million acres and has a Tribal member population of just over 7,000. Due to the Homestead Act and the Allotment Act in the early 1900s, the Tribes' ownership of the Reservation is approximately 65% and individual Tribal members own another 3% of the original land base. Housing and land to put homes on is a very scarce commodity because homesteading took up most of the prime building lands. What is left is mountainous or wet lands. The Tribes have been actively purchasing our homelands back with funds from Tribal revenues, settlement funds from Atlantic Richfield Company, and Kerr Dam mitigation. We have also received funding for purchase of individually owned fractionated interests, which funding is provided by the Department of the Interior under the Indian Land Consolidation Act.

In 1990, the Tribes implemented Public Law 93-638 contracts with the Bureau of Indian Affairs (BIA) to operate land programs. The contracts were converted to self-governance agreements in 1993 when the Tribes consolidated all Bureau of Indian Affairs funding as one of the first ten tribes to be included in the Self-Governance demonstration project. In the Tribal Lands Department, our staff of approximately 30 employees administers agriculture, minerals, grazing, leasing, rights of ways, appraisals, probates, acquisition, billing and collection, and resource planning programs, all of which generate encumbrances or ownership transfers, and it is required that all of these transactions be sent to the local LTRO for recordation.

Originally, when the Tribes sought to include all land programs in the self-governance agreement, the BIA deemed LTRO as an inherent federal function that was not eligible for inclusion. The Tribes requested a Solicitor's opinion and it was determined that it could be assumed by the Tribes under self-governance. In 1996, the Tribes assumed management of the LTRO. I publicly acknowledge Mr. Stanley Speaks, Regional Director of the BIA Northwest Regional Office and his staff, for their commitment to insure the Tribes succeeds in our efforts. We believe it made sense

that the land titles and records belonged here on the Reservation where the land and the Tribal people were. It isn't because we, the Tribal LTRO, can do a better job than the BIA LTRO; it is because of our vested interest in the outcomes. First, we have a closer tie because this is our land, and second, these are our people we are serving—our relatives, our friends, and our neighbors and we are serving only our Reservation. The BIA Northwest Regional Office, on the other hand, must serve 44 reservations or Tribes in five states.

On the Flathead Indian Reservation, as it is in all of Indian country, in order to obtain a mortgage on Trust land, a certified Title Status Report (TSR) is required. This is true whether you are borrowing from a bank or the Tribal Credit program. Between January 2004 and January 2005, our office produced 275 certified TSR's. The office also produces a certified TSR for land acquisition or ownership changes due to a deed or probate. It can take anywhere from 3 to 10 days to produce a certified TSR. The short timeframe to produce a TSR is due to the fact that we in the LTRO are personally familiar with each allotment, who the owner is, and where the allotment is located on the Reservation; and additionally, the BIA Superintendent at the Flathead Agency has been delegated authority from the regional office to sign on behalf of the Secretary of Interior. Also, prior to the Tribes compacting the LTRO, the Northwest Regional Office LTRO certified all of our tracts and ownership, thus making it possible for us to recertify from that date forward and ensuring we did not reinvent the wheel each time by going back to the original Trust Patent.

Compacting or contracting the Title function from the BIA may not be the solution for all tribes. We were fortunate on the Flathead Reservation to have had a successful working knowledge of all realty functions performed by the BIA, and our present Tribal staff was the BIA staff prior to the compact. Additionally, the Tribes were aware that taking the title function from the BIA would result in receiving only the funding that BIA determined it cost to perform the function, and not necessarily what it actually took to meet the Trust standards and accountability required by the Trustee. As a result, the Tribes financially subsidize the LTRO to insure that the membership is served in a timely and professional manner.

In closing, I emphasize that the Tribes are proud of what we have been able to accomplish through direct local control and management of our resources for the benefit of our Tribal members. On behalf of the Tribes, I thank you for the opportunity to provide this testimony.

Testimony of Yavapai-Apache Nation Chairman Jamie Fullmer

Committee on Financial Services
Subcommittee on Housing and Community Opportunity

"Removing Barriers to Homeownership for Native Americans"

July 31, 2006
Camp Verde, AZ

Good Morning Chairman Ney and Congressman Renzi and welcome to the Yavapai-Apache Nation. We appreciate the opportunity to address you with our concerns in this forum. We have three main issues we'd like to present for your consideration.

We see some very real and practical barriers to Native American homeownership, and having examined the situation carefully through our Tribal Housing Department, we see some potential solutions.

First, income requirements for participation in government subsidized programs need to be increased. Current income levels are at or below poverty levels and discourage self-sufficiency and self-determination. Each Federal and State Government Agency authorizing grant awards for housing Native American families have different income thresholds for qualifying. This needs to be changed to one acceptable income standard.

Under current law anyone seeking tax credits must use the Area Median Income (AMI) for the county in which the project is located as the benchmark for setting income eligibility and maximum rents. This creates a real hardship for areas which already have

a very low median income. As you know, most states, including Arizona, require that tax credit applicants agree to serve families with incomes well below the federal maximum of 60% of AMI. If an applicant from the Phoenix Metropolitan Statistical Area (MSA) agrees to serve families at 40% of AMI, the income can be as high as $24,040 for a family of four. However, a similar applicant from Navajo County would find the income for a family of four at 40% AMI to be only $16,400. For a project in Yavapai County, the income is only $19,320, fully $4,720 less than a project in the Phoenix area. That is a substantial difference and places a huge burden on the applicant from the lower income area. Of course, most Indian reservations are in very low income areas and this rule has a disproportionate effect on tribal tax credit projects.

We would like the Tax Credit program to more closely follow the NAHASDA guidelines, which allow for the use of the higher of the statewide median or the county median income. That way projects in very low income areas, particularly Indian tribes, would not be at such a competitive disadvantage to applicants from higher income areas. This would be a simple modification to Section 42 and I think no one would dispute the need for this change.

Secondly, while Section 42 was modified in 2000 to provide that NAHASDA funds could be used in tax credit projects, just as HOME program funds can be used, there remains a problem for projects that are operating and do not have sufficient income from tenants to cover all of their operating expenses. As you know, under NAHASDA rules, if a tax credit project utilizes NAHASDA funding the TDHE can charge no more than 30% of the applicant's income for rent, including utilities. Because many tribes serve families directly from their waiting lists and have political pressures to serve the very lowest income tenants first, they can never hope to receive enough income from rent receipts to cover all of their operating expenses.

Compounding this problem is that generally grants made from federal funds such as NAHASDA, needed in order to operate the project after it is built and occupied, cause a reduction in tax credits available to a project. This will reduce investor equity, which

will make the projects much more expensive and impractical for TDHEs. The IRS put forth a regulation saying certain types of rental assistance, including HUD Section 8, do not require a reduction in tax credits. The regulations also provide that, from time to time, the IRS will announce other types of rental assistance that are funded from federal sources but do not require a reduction in tax credits. We would like to request that the IRS add NAHASDA rental assistance to that list. The argument is that NAHASDA replaced HUD financing (including Section 8) with respect to Indian country and NAHASDA rental assistance should be treated like Section 8.

The IRS has already reviewed the NAHASDA statute and has questioned whether, and under what circumstances, rental assistance could be funded from NAHASDA funds. Accordingly, they have simply asked that HUD promulgate a "rule" to clarify the situation. If that rule existed, the IRS could add "Rental assistance funded by NAHASDA pursuant to Rule ___". Without a rule to refer to, IRS is apparently uncomfortable. They do not want to give a blanket OK to anything that might be funded by NAHASDA.

This type of rule or regulation change is particularly important for TDHEs with nominal rental collection. As an example, one tribe spends an average of approximately $4,000 to manage and maintain each home it manages. Furthermore, the reservation, like many, is plagued by high unemployment and under employment. This particular TDHE averages about $60 per month or $720 per year in rental collection per unit. On the non-LIHTC units, NAHASDA funds subsidize the difference of $3,280 per unit. However, currently the TDHE cannot subsidize the LIHTC units with NAHASDA. Therefore, the TDHE must access non-federal funds to subsidize the partnership. This has two disastrous affects 1. Poorer TDHEs are ineligible for the LIHTC program 2. This limits the number of LIHTC homes that a TDHE can operate since most tribes have a limited amount of non-federal funding.

Inasmuch as HUD Section 8 and NAHASDA are similar, the suggested HUD rule will allow the IRS to add NAHASDA to its list of rental assistance that does not cause a

reduction in credits. The Office of Native American Programs has been looking at this issue for over 4 years now but has not gotten around to notifying the IRS of the rule. Again, there should be no opposition to this simple change.

Third, land and land lease issues are a major barrier to Native American homeownership. Currently The Bureau of Indian Affairs, (BIA) reviews, approves and records all land leases and other land-related documents. In the case of the Yavapai-Apache Nation, one BIA agency regional office handles these tasks for the entire northern half of the state of Arizona. The agency office employs one individual to handle this activity for all of the Native American nations residing in this area, a total of 38 Native American nations. While counties in the northern half of the state of Arizona can record land documents, i.e. deeds and rights-of-way for non-reservation land in approximately 30 days, it can take the BIA upwards of one year to complete the same type of transaction. This indicates several points, lack of trained personnel, lack of adequate working procedures and a lack of commitment by the agency. Title Status Reports, (TSR) are requirement for compliance with federal funding by several programs, i.e. Low Income Housing Tax Credits. The Yavapai-Apache Nation has applied on several occasions for TSR's, some of which have never been received and others have taken as long as two years to receive. This level of performance must be improved to allow participation in these programs.

The Federal Government Housing Subsidy application must be streamlined. Reduce the review and approval lead time required by the granting agencies to allow more creditable and quantifiable data submission with applications. Currently the delays in awarding these grants cause errors in cost estimates and development schedules. As a result costs increase and project dynamics are curtailed.

Finally, as I'm sure you're aware, federal program reporting requirements are laborious, complicated and needlessly verbose. Everyone agrees that grant dollars must be accounted for and all expenditures paid with grant funds approved. However, progress reports should show progress from one period to the next with an upward spiral for

completion and compliance and not recanting every activity from the previous reporting periods. This type of activity is non-productive and inflationary.

We thank you for your time and consideration. I'm available for questions now, if you have any. And I'll leave a copy of these remarks with you, for your reference. Thank you.

THE SAN CARLOS APACHE TRIBE

Kathy W. Kitcheyan
Chairwoman

Robert E. Howard
Vice-Chairman

TESTIMONY OF

CHAIRWOMAN KATHLEEN WESLEY KITCHEYAN
SAN CARLOS APACHE TRIBE

FOR THE FIELD HEARING ON
REMOVING BARRIERS TO HOME OWNERSHIP FOR NATIVE AMERICANS

BEFORE THE SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY OF THE
FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

CAMP VERDE, ARIZONA

JULY 31, 2006

Introduction

Chairman Bob Ney, Ranking Member Barney Frank, my friend Congressman Rick Renzi, and other Members of the Subcommittee, welcome back to Arizona. My name is Kathy Kitcheyan. I am honored to testify before you today to provide the views of the San Carlos Apache Tribe on the issue of "Removing Barriers to Home Ownership for Native Americans." With me today are Tribal Council Member Robert G. Olivar, Sr., who is Chairman of the San Carlos Housing Board of Directors for the San Carlos Housing Authority, Mr. Ronald Boni, Executive Director of the San Carlos Housing Authority, and other members and representatives of the San Carlos Apache Tribe who work on housing issues for the Tribe.

Before I begin, I would like to take a moment to thank each of you for your deep commitment to addressing the housing needs of hundreds of Indian tribes across the country -- each with their separate customs, beliefs, and priorities. In

particular, I would like to thank my Congressman, Rick Renzi, for his tireless efforts in assisting my Tribe and other tribes as we work to attain a better standard of living for our people. We greatly appreciate the heart and soul he pours into everything he does to assist us in his work on Capitol Hill.

Two years ago, I testified before this Subcommittee in Tuba City when it began its hearings to address the housing needs of Indian tribes. In Tuba City, I conveyed my hope that, through that hearing and Congressional and private assistance, we could work together to find ways to tackle the severe housing shortage on the San Carlos Apache Reservation and to ensure that everyone who needs a home has one. Since then, my Tribe, like you, has redoubled its efforts to address the problem of the lack of home ownership. Today, I am pleased to report that the San Carlos Apache Tribe, with your help, has made some strides in providing increased opportunities for our tribal members to own homes. But there is much that is left to be done.

The Housing Situation on the San Carlos Apache Reservation

My Reservation continues to suffer from a severe housing shortage. As at the Tuba City hearing, I have attached pictures to this testimony of some of the sub-standard housing conditions that continue to plague my community. As you can see from the pictures, in contrast to some urban tribes in Arizona, the San Carlos Apache Tribe is still struggling to meet a very basic standard of living. I again reiterate that this situation is unacceptable in this great country of ours.

The San Carlos Apache Reservation has a land base of 1.8 million acres, but only a small percentage of the Reservation can be used for residential building purposes. The remainder of the Reservation is comprised of some of the most rugged terrain in the Southwest, including deep stands of timber, jagged outcroppings, and rocky canyons. As a result, the Reservation lacks infrastructure in all but two general housing areas. On the western edge of the Reservation, the Tribe has 3 districts: 7-Mile Wash, Gilson Wash, and Peridot. Located on the eastern edge of the Reservation is the District of Bylas. All together, these 4 districts are home to 13,299 tribal members.

There are 3,325 families on the Reservation of which 3,147 are considered low income as defined by NAHASDA. The official San Carlos Tribal Enrollment Office reports that there are 806 near elderly and 643 elderly households. The San Carlos Apache Housing Authority has identified that there are 1,327 low income families living in sub-standard housing conditions and 1,358 low income families living in overcrowded conditions. There are approximately 2,700 families on the Reservation that are in need of homes with 1,445 families (1,100 being low income) in need of homes to own. Only 2,061 home ownership units are available on the Reservation. Some tribal members live in rental units or mobile homes. According to the estimates of the San Carlos Housing Authority, the Tribe would need to build 145 homes per year for

the next 10 years to meet the housing needs of the current population alone. However, due to financial limitations, the San Carlos Housing Authority can only build 40 homes over the next two years. Further, over the past two years, the population of the Tribe has increased 6%. More than 30% of the population is now under the age of 18 years. New young families are in desperate need of housing, yet many of them lack the ability to support themselves with anything other than a high school diploma. On the other side of the coin, it is important that the Tribe offer some hope of jobs and home ownership to young Apache professionals who desire to live and work on the Reservation.

Approximately 30% of the homes on the Reservation were built 3 decades ago. Their average value is less than $50,000.00. Approximately 21% of them have no telephone service. Almost 10% lack complete plumbing or kitchen facilities. Contrast that with the statistics for the border towns of Globe and Miami. Although growth has steadily declined, approximately 30% of these homes were built in the past 5-10 years. A full 1/3 of the homes are worth between $100,000.00 – $150,000.00. Less than 4% lack telephone service. Less than 2% lack complete plumbing or kitchen facilities.

The physical distance between our communities is just a few short miles; however, the gap in home ownership between the Reservation and our surrounding communities is disproportionately large. We are decades behind the surrounding areas in our ability to provide decent, safe, and sanitary home ownership opportunities for our tribal members. The Tribe is working very hard to address this serious problem and has made significant progress in increasing the percentage of home owners on the Reservation as discussed in more detail below. As stated in more detail below, we believe the essential ingredients to increasing home ownership on the Reservation is by a continuing commitment from the federal government and tribal government on Indian housing coupled with more educational opportunities, job and vocational training opportunities, and economic development for tribal members.

The Tribe's Eligibility for the Section 184 Loan Guarantee Program

Since the hearing in Tuba City, the San Carlos Apache Tribe has worked to meet the requirements of the Department of Housing and Urban Development ("HUD") and entered into the Section 184 Loan Guarantee Program. The Section 184 Program was created by the Housing and Community Development Act of 1992 to address the lack of mortgage lending in Indian Country. Essentially, the 184 Program offers a loan guarantee to private sector lenders who make mortgage loans to eligible borrowers for homes located in Indian Country. The legislation establishing the 184 program is a significant departure from previous lending practices, as lenders have historically been reluctant to make home loans to individual Native Americans as a result of the difficulty of foreclosing a home located on trust land.

In order to become eligible for the program, the Tribe had to draft and adopt an eviction and foreclosure ordinance, procedures giving first lien priority to the HUD guaranteed loan, ensure that HUD and the lenders have access to tribal lands for the purpose of servicing and evaluating the properties, and approve an acceptable lease governing tribal trust lands. The Tribe is pleased to now be able to offer the opportunity for private mortgage lenders to operate within the Reservation's boundaries.

The Tribe has recently partnered with Wells Fargo Bank to provide information about and access to the Section 184 Loan Guarantee Program to interested tribal members. The committed representatives from Wells Fargo have educated themselves about the Section 184 Loan Guarantee Program, toured the Reservation, met with our Housing Authority officials, and have generally made themselves available to individuals inquiring about entry into the program. Although other banks have expressed an interest in funding 184 applications, no one other than Wells Fargo has really taken the steps needed to make this program work on the Reservation, including making visits to the Reservation to meet with clients where they are in familiar surroundings. These types of efforts by Wells Fargo are critical for first time home buyers on rural reservations. The mortgage process for any first time home buyer is confusing and overwhelming, including going to a bank to meet with a loan officer who quickly goes over stacks of financial paperwork and loan documents. For a Native American from a rural, poverty-stricken area with cultural and language barriers, it can be significantly more daunting. Wells Fargo has offered its services on site and in the districts at least 3-4 times since the inception of the program in January 2006. We are very appreciative that Wells Fargo has gone the extra mile in making this program available to our tribal members.

By the Housing Authority's estimate, five families have been approved for Section 184 loans in the past 6 months. Out of those five families, several have already purchased homes and one home is currently under construction. Despite these individual successes, only a minimal number of Apache families have the ability to take advantage of the Section 184 Loan Guarantee Program due to the staggering poverty and unemployment levels on the Reservation.

At last count, 84% of enrolled tribal members live within the boundaries of the Reservation. 76% of the Reservation population is unemployed. The Section 184 Loan Guarantee Program's qualifying ratio is 41% total debt to gross income. This means that a Native American borrower under the program can have up to 41% of their gross income allotted to debt. Generally, a lender would not execute a loan if the ratio is over 30%. Therefore, under the Section 184 Program, a Native American borrower can have a significantly higher debt load and still obtain a mortgage. Even though the Section 184 Program is accommodating, many of our tribal members still cannot meet the requirements due to their status as very low income families.

Proposed Home Ownership Pilot Project for the Reservation

Testifying at the Tuba City hearing resulted in a very positive development for the San Carlos Apache Tribe. Mr. Mike Lettig, Executive Vice President, Native American Financial Services, Key Bank, attended the hearing. After hearing San Carlos' testimony, he reached out to the Tribe to see if Key Bank could assist in providing increased housing opportunities on the Reservation. I am pleased to say that we are working very closely now with Key Bank and are entertaining a proposed partnership with them, utilizing the Tribe's access to the Section 184 Program, to create a comprehensive home ownership package so that those families, who are very low income and are not eligible for the Section 184 Loan Guarantee Program, can have an opportunity to own a home.

The proposal contains the following two basic homeownership tracks:

Track 1: The Tribe would identify tribal members who remain in the early stages of transitioning from rental housing and/or living on tribal trust land. Key Bank would pre-qualify the families, educate them on the advantages of homeownership, and start the process to originate loans for this first group of tribal members. The origination of loans under this first track would occur either through Key Bank staff or the San Carlos Housing Authority utilizing the innovative "Home Counselor On-Line" Program available through Fannie Mae. With a lot of hard work and a little bit of luck, this first group of very low income families could be in their first homes by November 2007.

Track 2: The Tribe would identify tribal members who are gainfully employed, have a history of credit and/or savings, and are ready to own homes on reservation land. Key Bank would assist these individuals by walking them through the Section 184 Loan Guarantee process.

In this way, Key Bank proposes to lend approximately $15 million for home mortgages on the San Carlos Apache Reservation over the next two years. Without a doubt, Key Bank has lofty goals, but even if they only achieve half of what they set out to do, it would constitute a major success for home owners on the Reservation. This is a great start, but it only skims the surface in terms of meeting the overall housing needs on the Reservation. An important side note to this pilot project is the hope that this project can be replicated across the nation in other Indian communities.

Continuing Barriers to Home Ownership on the Reservation

Continuing barriers to home ownership on the Reservation involve external factors such as the lack of economic development, the challenge of attracting potential investors to the Reservation, and the ongoing need for immediate access to capital. Administrative barriers include the Tribe's need to

establish a land use plan, its need for comprehensive planning efforts, and its population growth.

Tribal home ownership rates could reap substantial benefits by and through the ongoing development of programs that attract investment partners for new construction, rehabilitation, and mortgage lending in Indian Country. Although challenging, barriers to long-term investment can be overcome. The Section 184 legislation is a shining example of how government and industry can partner for the benefit of low-income Native American homeowners. Another example of government-industry partnership is the Low Income Housing Tax Credit ("LIHTC") program. The San Carlos Housing Authority has already obtained tax credit awards for 2005 and 2006 through the State of Arizona in order to rehabilitate a combined total of 80 rental units in the Peridot District. Washington Mutual Bank has signed on as our first syndicator, and the Housing Authority has already begun rehabbing its first block of 10 rental units.

The Tribe has solicited Enterprise Community Partners for assistance in achieving capacity building for development of a home ownership program and Low Income Housing Tax Credit rental housing development. One of the goals of the Tribe's partnership with Enterprise Community Partners is to create a financing product model that blends mortgages and subsidy financing which will enable home ownership to families with a minimum annual income of $20,000.

Even though the LIHTC partnerships as currently structured by the San Carlos Housing Authority are designed to improve rental housing, long term plans could involve new construction for home ownership purposes. Under the LIHTC guidelines, however, applicants may qualify for the program if their income is 60% of the median area income. Because HUD requires their home owners to qualify for home ownership at 80% of the median area income, the San Carlos Housing Authority would be forced to construct a radically different set of guidelines to offer home ownership opportunities through a LIHTC program. It would be more likely that the Housing Authority would simply use the LIHTC program for the sole purpose of building homes without trying to recoup its costs, similar to the program currently being implemented by the Tribal Construction Department. Congress should look at the LIHTC program to see if it can be made to accommodate more tribal housing needs, including ensuring that the program is administered by the federal government instead of the state acting as an intermediary.

The success of these initial projects clearly demonstrates that if the financial and legal incentives are present as well as a commitment to community-building, investors will come to the Reservation. However, the San Carlos Apache Reservation still has many barriers to overcome before it is on a housing par with its neighbors. Some of these barriers are described below.

Lack of Economic Development is a Barrier to Home Ownership

At last estimate, approximately 77% of the Tribe's population was considered to be at or below the federal poverty line. The employers on the Reservation are limited. They include: the tribal government, our very modest Apache Gold Casino Resort, the Bureau of Indian Affairs, the school district, and our current hospital. In total, these employers offer roughly 1,600 jobs to over 13,000 people. We are hopeful that our new Indian Health Service health clinic will provide another 250 jobs upon the completion of the facility's construction in 2010. However, to put it bluntly, we need more jobs so that our people can afford to own their own homes. Without jobs, tribal members cannot afford to pay rent much less save for a down payment on a home. Long-term, sustainable economic development is essential to achieving higher rates of home ownership on the Reservation.

Moreover, we need additional educational, training, and vocational opportunities for our people so that they are qualified for jobs and adequately trained to perform them. We are extremely concerned about the decreasing support of the federal government for Indian students who want to attend higher education institutions.

As you can see, all of these components – housing, employment, education, infrastructure -- are inter-related. Higher rates of employment and educational attainment correspond to lower rates of poverty, which are then linked to more sophisticated consumers of credit and better and more stable credit histories. Native American home ownership rates can continue to benefit from community-based programs designed to improve the employment outlook on the Reservation and strengthen the tribal economy.

Difficulties Accessing Capital are a Barrier to Home Ownership

As always, access to capital continues to be a perennial barrier to generating home ownership on the Reservation. As pointed out by Marty Shuravloff, the Chairman of the National American Indian Housing Council ("NAIHC"), the impact of federal funding for the Native American Block Grant has been steadily eroded by inflation. At this time, the San Carlos Housing Authority, a non-profit organization incorporated under a tribal charter, depends on its NAHASDA Block Grant for over $5.3 million in annual funds. By contrast, its program income is a mere $350,000.00 – a healthy source of funding in comparison to many other housing programs, but clearly a drop in the bucket in terms of long term sustainability.

As a general rule, NAHASDA requires the Housing Authority to deplete its program income prior to accessing any block grant funds. Program income is derived primarily from proceeds of the sale for homes that have been conveyed to the buyer and, secondarily, from the small revenue generated by the Housing Authority's activities.

We strongly encourage the federal government to continue to make grant assistance directly available to the Tribes as well as fund technical assistance and training through organizations such as NAIHC. Without such support, there is little to no opportunity for a Housing Authority in an isolated rural area such as San Carlos to identify and secure private sources of funding.

Difficulties in Leasing are a Barrier to Home Ownership

At this time, a prospective home owner's application for a home site necessitates an exhaustive and intensive administrative burden on the Tribe as well as the BIA because the Tribe must obtain approval of the Secretary of the Interior for long-term leases of tribal trust lands.[1] Despite a Memorandum of Understanding signed in 2004, the Tribe's experience with the BIA relating to Title Status Reports ("TSRs") and the land assignment process has not markedly improved. The San Carlos Apache Tribe believes that federal oversight and Secretarial approval of leases for tribal lands is unnecessary under today's self-determination policies. Such federal oversight consistently causes delays in transactions, thus making mortgage lending in Indian Country significantly less attractive to lenders.

Attached to this testimony is proposed legislation to amend federal leasing law as it pertains to tribes. This proposed legislation would eliminate the requirement for Secretarial approval of long term leases. The proposed amendment is identical in form to existing federal law that exempts the Navajo Nation from the requirement of Secretarial approval of such leases, and very similar to existing federal law that exempts the Tulalip Tribe from such requirements.[2] We support this proposed legislation and urge the Congress to enact this into law. This would be a step in the right direction in removing barriers to home ownership on reservations.

Lack of Infrastructure is a Barrier to Home Ownership

As I mentioned in my testimony two years ago, the Tribe's utility infrastructure is sorely inadequate and presents barriers to home ownership. We need both immediate and ongoing improvements to our sewage system, water storage and distribution mechanisms, fire fighting equipment, and educational facilities. When you build homes, you need electricity, water, plumbing, and gas. We need dollars to do this. San Carlos does receive Indian Community Development Block Grant funds from HUD but must use this funding to repair severely dilapidated housing. The Tribe is unfortunately not in a position at this time to use this funding to develop and improve needed infrastructure.

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[1] 25 U.S.C. § 415.
[2] 25 U.S.C. 415(b) & (e).

Comprehensive planning is needed to link infrastructure to new homes as well as to avoid future problems. For example, the electricity bills in our community have sky-rocketed. New homes are being built to use electricity instead of natural gas, which is much cheaper. We need to find ways so that the new homes being built use gas instead of electricity. Further, some of the housing developments built several decades ago are located in flood plains, which contain sandy, shifting soil, which in turn, creates foundation, electrical, piping and other problems. We need to make sure that new housing is not built in areas that harm the future structural integrity of the dwelling. An additional challenge at San Carlos is the fact that future housing developments are projected to be built at slightly higher elevations in order to alleviate building problems caused by the silty, expansive soils found at current housing locations. But building at higher elevations simultaneously poses financial and engineering challenges, as it is both more costly and more difficult to access utilities such as electricity and water at higher elevations.

In addition to the need for a comprehensive planning effort, the Tribe's progress toward greater home ownership opportunities could be increased by securing federal funds to assist in the development of a Tribal Land Use Plan. By developing a land use plan or contracting for land services, the Tribe could initiate its own research into proposed land services use by individuals and ensure that certain tracts of land are primed for the Tribe's highest and best use.

Conclusion

In conclusion, the San Carlos Apache Tribe has made a commitment to improve home ownership opportunities through the use of financial partnerships with outside investors. However, additional federal funds and resources must be made available to Indian tribes in order to successfully confront issues of housing and home ownership on the Reservation. It is vital that these funds and resources originate at the federal level. Indian tribes should be eligible to receive the same level of federal assistance from HUD that has been provided to the states. This funding must be provided directly to the Indian tribal governments rather than passing funds through the states.

We are working hard to establish innovative homeownership programs as well as construct, operate and maintain the necessary infrastructure. Our goal is to develop an integrated approach to the development of homeownership opportunities. I hope that this information is helpful in assisting the Subcommittee as it works to address housing issues in Indian Country. Thank you for taking the time to come see the conditions out here first hand, and we look forward to working with you to rebuild our communities so that our people can have a better quality of life and a more promising future.

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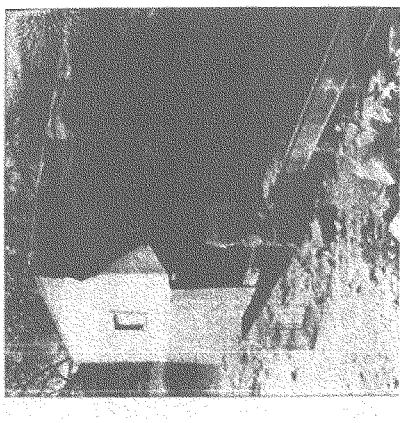

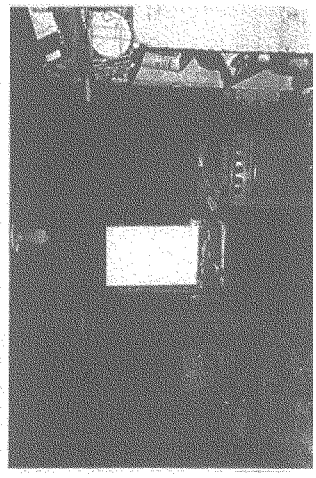

PROPOSED AMENDMENT TO GENERAL FEDERAL INDIAN LEASING LAW TO EXEMPT INDIAN TRIBES FROM SECRETARIAL APPROVAL FOR LONG TERM LEASES, UPON INDIVIDUAL TRIBAL ELECTION

INDIAN SOVEREIGNTY ENHANCEMENT ACT OF 2006

§ 415. Leases of restricted lands for public, religious, educational, recreational, residential, business, and other purposes; approval by Secretary

(a) Authorized purposes; term; approval by Secretary.

Except as provided in subsection (h), any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, except leases of land located outside the boundaries of Indian reservations in the State of New Mexico, leases of land on the Aqua Caliente (Palm Springs) Reservation, the Dania Reservation, the Pueblo of Santa Ana (with the exception of the lands known as the "Santa Ana Pueblo Spanish Grant"), the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon, the Moapa Indian reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave Reservation, the Burns Paiute Reservation, the Coeur d'Alene Indian Reservation, the Kalispel Indian Reservation, the pueblo of Cochiti, the pueblo of Pojoaque, the pueblo of Tesuque, the pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, [the] Yavapai-Prescott Community Reservation, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Viejas Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, the Cabazon Indian Reservation, the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society, leases the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and lands held in trust for the Las Vegas Paiute Tribe of Indians, and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and lands held in trust for the Reno Sparks Indian Colony, lands held in trust for the Torres Martinez Desert Cahuilla Indians, lands held in trust for the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, lands held in trust for the Confederated Tribes of the Umatilla Indian Reservation, lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon, lands held in trust for the Cherokee Nation of Oklahoma, lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California, lands held in trust for the Confederated Tribes of

the Grand Ronde Community of Oregon, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation, which may be for a term of not to exceed ninety-nine years, and except leases of land for grazing purposes which may be for a term of not to exceed ten years. Leases for public, religious, educational, recreational, residential, or business purposes (except leases the initial term of which extends for more than seventy-four years) with the consent of both parties may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior. Prior to approval of any lease or extension of an existing lease pursuant to this section, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

(b) Leases involving Tulalip Tribes. Any lease by the Tulalip Tribes under subsection (a) of this section, except a lease for the exploitation of any natural resource, shall not require the approval of the Secretary of the Interior (1) if the term of the lease does not exceed fifteen years, with no option to renew, (2) if the term of the lease does not exceed thirty years, with no option to renew, and the lease is executed pursuant to tribal regulations previously approved by the Secretary of the Interior, or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3).

(c) Leases involving the Hopi Tribe and the Hopi Partitioned Lands Accommodation Agreement. Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

(d) Definitions. For purposes of this section--

(1) the term "Hopi Partitioned Lands" means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this subsection [enacted Oct. 11, 1996]);

(2) the term "Navajo Indians" means members of the Navajo Tribe;

(3) the term "individually owned Navajo Indian allotted land" means a single parcel of land that--

(A) is located within the jurisdiction of the Navajo Nation;

(B) is held in trust or restricted status by the United States for the benefit of Navajo Indians or members of another Indian tribe; and

(C) was--

(i) allotted to a Navajo Indian; or

(ii) taken into trust or restricted status by the United States for an individual Indian;

(4) the term "interested party" means an Indian or non-Indian individual or corporation, or tribal or non-tribal government whose interests could be adversely affected by a tribal trust land leasing decision made by the Navajo Nation;

(5) the term "Navajo Nation" means the Navajo Nation government that is in existence on the date of enactment of this Act or its successor;

(6) the term "petition" means a written request submitted to the Secretary for the review of an action (or inaction) of the Navajo Nation that is claimed to be in violation of the approved tribal leasing regulations;

(7) the term "Secretary" means the Secretary of the Interior; and

(8) the term "tribal regulations" means the Navajo Nation regulations enacted in accordance with Navajo Nation law and approved by the Secretary.

(e) Leases of restricted lands for the Navajo Nation.

(1) Any leases by the Navajo Nation for purposes authorized under subsection (a), and any amendments thereto, except a lease for the exploration, development, or extraction of any mineral resources, shall not require the approval of the Secretary if the lease is executed under the tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed--

(A) in the case of a business or agricultural lease, 25 years, except that any such lease may include an option to renew for up to two additional terms, each of which may not exceed 25 years; and

(B) in the case of a lease for public, religious, educational, recreational, or residential purposes, 75 years if such a term is provided for by the Navajo Nation through the promulgation of regulations.

(2) Paragraph (1) shall not apply to individually owned Navajo Indian allotted land.

(3) The Secretary shall have the authority to approve or disapprove tribal regulations referred to under paragraph (1). The Secretary shall approve such tribal regulations if such regulations are consistent with the regulations of the Secretary under subsection (a), and any amendments thereto, and provide for an environmental review process. The Secretary shall review and approve or disapprove the regulations of the Navajo Nation within 120 days of the submission of such regulations to the Secretary. Any disapproval of such regulations by the Secretary shall be accompanied by written documentation that sets forth the basis for the disapproval. Such 120-day period may be extended by the Secretary after consultation with the Navajo Nation.

(4) If the Navajo Nation has executed a lease pursuant to tribal regulations under paragraph (1), the Navajo Nation shall provide the Secretary with--

(A) a copy of the lease and all amendments and renewals thereto; and

(B) in the case of regulations or a lease that permits payment to be made directly to the Navajo Nation, documentation of the lease payments sufficient to enable the Secretary to discharge the trust responsibility of the United States under paragraph (5).

(5) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1), including the Navajo Nation. Nothing in this paragraph shall be construed to diminish the authority of the Secretary to take appropriate actions, including the cancellation of a lease, in furtherance of the trust obligation of the United States to the Navajo Nation.

(6) (A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of the Navajo Nation with any regulations approved under this subsection. If upon such review the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding the approval of the tribal regulations and reassuming responsibility for the approval of leases for Navajo Nation tribal trust lands.

(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall--

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the Navajo Nation with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy or the rescission of the approval of the regulation involved and the reassumption of the lease approval responsibility, provide the Navajo Nation with a hearing on the record and a reasonable opportunity to cure the alleged violation.

(f) Binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community. Any lease entered into under the Act of August 9, 1955 (69 Stat. 539), as amended, or any contract entered into under section 2103 of the Revised Statutes 25 U.S.C. 81 as amended, affecting land within the Gila River Indian Community Reservation may contain a provision for the binding arbitration of disputes arising out of such lease or contract. Such leases or contracts entered into pursuant to such Acts shall be considered within the meaning of "commerce" as defined and subject to the provisions of section 1 of title 9, United States Code. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, United States Code, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28, United States Code.

(g) Lease of tribally-owned land by Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(1) In general. Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

(2) Conditions. A lease entered into under paragraph (1)--

(A) shall commence during fiscal year 2011 for an initial term of 25 years;

(B) may be renewed for an additional term of 25 years; and

(C) shall specify in the terms of the lease an annual rental rate--

(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or any successor regulation).

PROPOSED AMENDMENT BEGINS HERE

Add a new Subsection (h) as follows:

(h) Leases of trust or restricted lands for all Indian Tribes; exemption from approval by Secretary upon Tribal election; promulgation of Tribal regulations

(1) If any Tribe so elects, any leases by that Tribe for purposes authorized under subsection (a) of this section, and any amendments thereto, shall not require the approval of the Secretary if the lease is executed under tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed -

(A) in the case of a business or agricultural lease, 25 years, except that any such lease may include an option to renew for up to two additional terms, each of which may not exceed 25 years; and

(B) in the case of a lease for public, religious, educational, recreational, or residential purposes, 75 years if such a term is provided for by the Tribe through the promulgation of regulations.

(2) Paragraph (1) shall not apply to individually-owned Tribal allotted land.

(3) The Secretary shall have the authority to approve or disapprove tribal regulations referred to under paragraph (1). The Secretary shall approve such tribal regulations if such regulations are consistent with the regulations of the Secretary under subsection (a) of this section, and any amendments thereto, and provide for an environmental review process. The Secretary shall review and approve or disapprove the regulations of any Tribe within 120 days of the submission of such regulations to the secretary. Any disapproval of such regulations by the Secretary shall be accompanied by written documentation that sets forth the basis for the disapproval. Such 120-day period may be extended by the Secretary after consultation with the Tribe.

(4) If the Tribe has executed a lease pursuant to tribal regulations under paragraph (1), the Tribe shall provide the secretary with -

(A) a copy of the lease and all amendments and renewals thereto; and

(B) in the case of regulations or a lease that permits payment to be made directly to the Tribe, documentation of the lease payments sufficient to enable the

Secretary to discharge the trust responsibility of the United States under paragraph (5).

(5) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1), including any Tribe or tribal member. Nothing in this paragraph shall be construed to diminish the authority of the Secretary to take appropriate actions, including the cancellation of a lease, in furtherance of the trust obligation of the United States to the Tribes.

(6) (A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of any Tribe with any regulations approved under this subsection. If upon such review the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding the approval of the tribal regulations and reassuming responsibility for the approval of leases for those tribal trust lands to which the regulations had applied.

(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall -

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the Tribe with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy or the rescission of the approval of the regulation involved and the re-assumption of the lease approval responsibility, provide the Tribe with a hearing on the record and a reasonable opportunity to cure the alleged violation.

The Confederated Tribes of the Colville Reservation

Prepared Statement of the Honorable Michael Marchand, Chairman
Confederated Tribes of the Colville Reservation

Field Hearing on
Removing Barriers to Homeownership for Native Americans

Before the U.S. House Committee on Financial Services
Subcommittee on Housing and Community Opportunity

July 31, 2006

INTRODUCTION

Good morning Chairman Ney, Congressman Renzi and distinguished members of the Subcommittee. My name is Michael Marchand, and I am the Chairman of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation ("Colville Tribe" or "Tribe"). Today, I am pleased to provide our views on several issues relating to removing barriers to homeownership in Indian country, specifically the Colville Tribe's experience assuming land title functions that were previously provided by the Bureau of Indian Affairs ("BIA").

Since assuming control of land title functions from the BIA in 1997, the Colville Tribe can generate Title Status Reports and begin processing loan applications for potential tribal member homeowners in as little as one business day. This process generally took 60 to 90 days, even longer, when the BIA was responsible for generating TSRs.

BACKGROUND ON THE COLVILLE TRIBE

The Colville Indian Reservation is located in north central Washington State and comprises more than 1.4 million acres of trust and allotted lands. Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of 12 smaller aboriginal tribes and bands from across eastern and central Washington. The majority of our 9,200 tribal members live on the Reservation.

The Colville Indian Housing Authority ("CIHA") administers the Tribe's housing programs. CIHA began construction of its first housing units in 1977 under the 1937 Housing Act. From 1977 to 1985, CIHA built 506 units and, by the mid-1990s, 74 of these units had conveyed to tribal members. Since the passage of the Native American Housing Assistance and Self-Determination Act ("NAHASDA"), CIHA has built 42 low-income rental units and is

currently working on the infrastructure of a 40 acre housing site. In addition to building houses, CIHA also provides down payment assistance to tribal members, and since NAHASDA's passage, has provided 126 down payment assistance grants to tribal members totaling $475,489 for total home values of more than $9 million.

A critical component to homeownership by tribal members on the Colville Reservation is Colville Tribal Credit ("CTC"), a tribally owned and controlled financial service provider originally established in 1959. CTC's mission is to enhance the quality of life of tribal members by providing home, business and consumer loans. The governing body of the Colville Tribe establishes CTC's operating policies through the enactment of tribal resolutions. Pursuant to a 2003 tribal resolution, CTC may provide home loans of up to $125,000 to Colville tribal members. Funding for these loans comes from CTC's cash on hand, repayment of existing loans and annual profits from existing loans. The overwhelming number of home loans obtained by Colville tribal members are funded, at least in part, by CTC.

TRUST LAND AND THE IMPORTANCE OF TITLE STATUS REPORTS

As the Subcommittee is aware, one of the biggest challenges to expanding homeownership in Indian country is the fractionated nature of Indian trust lands and the necessity of accurately determining ownership of the lands. The responsibility for certifying title to Indian trust lands has traditionally been vested with the Land and Title Records Offices ("LTRO") within the various BIA Regional Offices.[1] One of the key responsibilities of LTROs is to generate Title Status Reports ("TSRs"). A TSR is a report that provides a legal description of a parcel of Indian land and current ownership information, such as easements, mortgages or other encumbrances. For most lenders, including our own CTC, a BIA-certified TSR is a prerequisite to begin processing an application for a home loan.

THE COLVILLE TRIBE'S ASSUMPTION OF LTRO FUNCTIONS FROM THE BIA

In the early 1990s, local BIA agency offices, including the Colville Agency, became capable of accessing the Land Records Inventory System ("LRIS") database for purposes of obtaining TSRs. When our Colville Agency staff began accessing the LRIS (previously accessible only from the BIA's Northwest Regional Office), they discovered that our Northwest Regional Office LTRO staff had not updated the history or chain of title on the majority of the Indian lands within the Colville Reservation for eight years.

When our local agency staff visited the Northwest Regional LTRO, they observed piles of recorded documents that had yet to be inputted into the LRIS database. The Northwest Regional LTRO would generate a TSR by searching through these piles in hopes of finding documents relevant to the subject parcel of land. Having observed the conditions in the

[1] The Colville Tribe is located in the BIA's Northwest Region and is served by the Northwest Regional Office in Portland, Oregon. The Colville Tribe is also served by a local BIA agency office, the Colville Agency.

Northwest Regional Office, the Colville Agency staff—many of whom were Colville tribal members—knew that they had the capability of maintaining land title records in a more accurate and efficient manner.

In early 1996, the Colville Tribe initiated negotiations with the Northwest Regional Office to assume its LTRO and perform all of the LTRO functions locally at the Colville Agency. Our request was met with skepticism and resistance by the BIA. The Northwest Regional Office claimed that the LTRO was an "inherently federal function" and, therefore, could not be contracted. After we demonstrated that the LTRO could, in fact, be contracted, the BIA tried to discourage us from doing so by insisting the Northwest Regional Office did not have a work backlog. After the Colville Tribe prepared a document outlining the nature and severity of the backlog, the BIA finally relented and began negotiations. In short, the BIA fought us every step of the way in an effort to maintain control of the LTRO at the Regional Office level.

The Colville Tribe finally reached an agreement with the BIA in April 1997 to assume LTRO functions locally. Under the existing arrangement, the Colville Tribe's staff performs the following land title functions:

- Recording all documents submitted by Colville Agency staff relating to lands being acquired into trust status, currently in trust status, or leaving trust status;

- Maintaining records of ownership, leasing activity and other encumbrances pertaining to lands held in trust;

- Upon request, examining records relating to parcels of Indian lands and maintaining current maps of Indian lands; and

- Generating TSRs.

The BIA's role is limited to certifying that the TSRs that the Colville Tribe prepares are accurate.

HOMEOWNERSHIP ON THE COLVILLE RESERVATION SINCE THE COLVILLE TRIBE ASSUMED CONTROL OF LAND TITLE FUNCTIONS

Before the Colville Tribe contracted the LTRO functions, obtaining a TSR took from 60 to 90 days, sometimes longer, and required the Northwest Regional Office staff to manually search through piles of recorded documents. Now that the Colville Tribe performs these services locally and has access to its own records, our staff can generate—on an expedited basis—a TSR in one business day. Our staff completes most TSRs in approximately five business days.

The ability to obtain TSRs in a timely manner has proven critical to homeownership on the Colville Reservation. Most of our tribal members rely on CTC to obtain home loans, and the ability of CTC to receive a TSR in a timely manner ensures that we can process loan applications

for tribal members quickly. A timely TSR also allows tribal members to sell or exchange real estate held in trust status without undue delay. In sum, the ability to obtain TSRs in a timely manner promotes a vibrant tribal housing market by eliminating the long lag times traditionally associated with buying and selling homes on Indian lands.

OTHER BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS

Although the Colville Tribe's assumption of LTRO functions has solved some problems, others remain. For example, we continue to experience delays in other areas critical to homeownership that are attributable to the BIA's resources. Limited BIA funding translates into a shortage of surveyors and land appraisers, and the services of both are needed to complete transactions involving trust land.

Also, we were recently informed that two of our regional banks, Washington Mutual and AmericanWest Bank, intend to discontinue offering HUD-184 mortgage products. The stated rationale for the decision was that the HUD-184 loans have not proven economically viable. The Colville Tribe is obviously concerned when regional financial institutions conclude that it is no longer economically viable to provide products that have proven critical to expanding homeownership in Indian country.

Finally, the Colville Tribe is generally interested in exploring the possibility of marketing its home loans to secondary markets. Because loan funds made available to CTC come exclusively from the Colville Tribe, when CTC expends its available funds it can no longer provide home loans. This occurred in 2004 during the home refinancing boom when CTC expended all of its available home loan funds in the first quarter of that year. Exploring ways that allow Indian tribes to market their loans and leverage their resources might ensure this type of situation is never repeated.

The Colville Tribe greatly appreciates the opportunity to testify at this hearing and looks forward to assisting the Subcommittee in any way it can in addressing these issues. At this time, I would be pleased to answer any questions the Subcommittee might have.

Testimony of President Joe Shirley
Navajo Nation

House Financial Services Committee
Subcommittee on Housing and Community Opportunity

"Removing Barriers to Homeownership for Native Americans"
July 31, 2006

Good morning. On behalf of the entire Navajo Nation, I would like to welcome members of the Subcommittee to the beautiful state of Arizona for this important field hearing. We are pleased that the Subcommittee has maintained interest in Native American Homeownership by holding a follow-up to its first hearing here in Arizona two years ago. While we had hoped to see a more marked change in access to homeownership during these two years, we are still very proud of our housing program at Navajo and I am pleased to be able to share with you some of our experience, as well as our concerns, in this oversight hearing on federal Indian housing programs.

Bureau of Indian Affairs Title Process

Homeownership on tribal and individual trust land needs to be a foundational component of the Navajo economy. Navajo workers should not have to commute hundreds of miles round trip from border communities where homeownership opportunities are available to job sites on the reservation where homeownership opportunities are complicated by excessive delays related to land title issues. This lack of on-reservation homeownership plays a role in the estimated 71% economic leakage for the Navajo economy to off reservation businesses. Ideally, Navajo families should have incentive to live on the reservation to build our own economy, rather than be barred from it due to red tape.

Title issues involving the Bureau of Indian Affairs continue to be one of the greatest stumbling blocks for our development. We applaud the efforts of the House Financial Services Committee and this Subcommittee in particular for shining a spotlight on the Title Status Report (TSR) process in the previous hearing and for continuing to follow-up on the issue.

While we have seen the U.S. Department of Agriculture and U.S. Department of Housing and Urban Development reach out to the Bureau of Indian Affairs over the past couple of years to assist in smoothing the title process, it appears the BIA has not reciprocated these efforts. We understand that there are a great variety of pressures placed on an understaffed and under-funded BIA that may keep them from addressing this particular issue, but we have been frustrated by a lack of leadership and vision at the Bureau to help us move in a more productive direction.

The Navajo Nation put into place the legal infrastructure for mortgage-based homeownership over 10 years ago, having instituted the necessary foreclosure and

eviction laws, signed MOU with Fannie Mae and USDA and subsequently making amendments to the homesite lease to permit HUD 184 loans. Since that time over 10,000 Navajo families have attended homebuyer orientations, and over 2,500 families have graduated from 8 hours of Homebuyer Education. So we have worked on the legal infrastructure and have worked on preparing Navajo families for homeownership. However, the time it takes for families to obtain financing, which is directly related to how long it takes to access and record title information with the Bureau of Indian Affairs, has been a huge barrier.

Our homeownership programs are reporting that the average time from the day a Navajo family walks in the door and applies for homeownership assistance to the date of loan closing is still averaging about 24 months. In addition to that time frame it takes an additional 6-8 months to received the final TSR showing recording of the lien with the BIA. The recording of the closing with the County usually happens the day of loan closing.

It is our perception, and we have heard the perception of others around the country, that there has been some improvement at the Title Plant level and that the large part of those delays rest at the Agency level where BIA offices appear to be understaffed, perhaps under-trained, or have not been able to make the processing of mortgage related TSR's a priority. Without an "intermediary" following up with the Agency Offices about TSR's or mortgage packages, the timeframe would be even more elongated. Timeframe for the initial TSR request is averaging 3 months.

These time delays discourage Navajo families from continuing with the loan application process often in favor of purchasing mobile homes that do not contribute to asset building for families and do not contribute to the Navajo economy.

The Navajo Nation is exploring the potential of establishing our own Navajo Nation Title Plant in an effort to enhance our sovereignty and economic development opportunities. This will be a challenging process given the size of the Navajo Nation and should we proceed, will require the full cooperation of the Bureau of Indian Affairs. The outcome of this project could be the ability of the Navajo Nation to provide near real time information to prospective homeowners and prospective businesses about any question related to land title or status. An ideal system could be internet based, meet internal standards for security, could attach all related documents to base land records and tie in with GIS mapping systems. Various levels of information could be available to Navajo Nation Departments and Divisions across the Navajo Nation and various levels of information could also be available to businesses and financial institutions in a manner similar to a state of the art County Clerk and Recorders Office.

We have a lot of people outside of the BIA searching for ways to improve the TSR process and believe that a solution exists, but we need the BIA itself to be on board, actively pursuing this solution with us. We hope that hearings such as this will bring further light to the issue and will compel the BIA give it a higher priority.

HUD's Use of Census Data for Establishing Need in the IHBG

I would like to take this opportunity to thank the members of this Committee and particularly Congressman Renzi for the work on HUD's use of multi-race Census data in allocation housing dollars.

The Navajo Nation lost millions of dollars in desperately needed housing funding as a result of HUD's unilateral decision to use the multi-race data available after the 2000 Census. In fact we understand that, nationally, 393 tribes received a lower allocation because of the use of multi-race data. NAHASDA was originally created to fill the need for services to low-income AIAN people on reservations, so that shift effectively took funding from the very population it was created to serve.

We were quite pleased to see that the Administration proposed the "hold harmless" language be implemented in appropriations once again and that the House Appropriations Committee has included the language in its version of the Fiscal Year 2007 Appropriations Act. This compromise language allows use of both data sets with each recipient using the data set that is most beneficial.

We believe the best policy would be to return to single-race data altogether until a better method for establishing need is found. The National American Indian Housing Council supported this position of returning to single-race data at its recent business meeting in Honolulu, Hawaii.

STATEMENT OF ORLANDO J. CABRERA

Assistant Secretary, Office of Public and Indian Housing
U.S. Department of Housing and Urban Development

Field Hearing before the United States House Committee on Financial Services, Subcommittee on Housing and Community Opportunity

United States House of Representatives

"Removing Barriers to Homeownership for Native Americans"

July 31, 2006

INTRODUCTION

Chairman Ney, Congressman Renzi, and Members of the Subcommittee, thank you for inviting me to talk about "Removing Barriers to Homeownership for Native Americans."

My name is Orlando Cabrera, and I am HUD's Assistant Secretary for Public and Indian Housing. Among other things, I am responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to 561 federally-recognized Indian tribes. We serve these tribes directly, or through their tribally designated housing entities – TDHEs – by providing grants and loan guarantees designed to support affordable housing, community, and economic development activities.

Our partners are diverse: they are located on Indian reservations, in Alaska Native Villages, and in other traditional Indian areas. In addition to our tribal programs, we have been working with Native Hawaiians and the Department of Hawaiian Home Lands.

It is a pleasure to appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indians and Alaska Natives. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families who live on Indian reservations, on trust or restricted Indian lands and in Alaska Native Villages. This momentum needs to be sustained as we continue to work together toward creating a better living environment in all Native American communities.

As we move forward, we're cognizant of, and will work within, the government-to-government relationship that exists between this Department and the federally recognized Indian tribes we serve.

You've asked me to speak about barriers to homeownership for Native Americans. Let me share with you how I'd like to help tribal communities succeed. My background is in housing, so I would like to focus on the tools of my profession. Today, there are more ways to leverage federal funds than ever before. Tribes should look beyond HUD's Indian Housing Block Grant and Title VI programs. They also need to pursue opportunities such as the low-income housing tax credits, wherever possible. There are other federal and state programs that they may qualify for but are not using now, and they need to explore partnerships with the private sector, the most overlooked resource.

All these new efforts involve some risk, but without risk, fewer families are assisted.

We've engaged in marketing and outreach activities designed to make tribes and TDHEs more familiar with our programs, particularly those with federal guarantees to lower the risks that have traditionally made the private sector shy away from partnering with tribes.

We're also examining a bond financing initiative that has worked well for public housing authorities to see if it can do the same for tribes. We can also assist with advice on how to leverage private-sector capital to create more housing on reservations.

HUD NATIVE AMERICAN HOMEOWNERSHIP EFFORTS

Secretary Jackson has requested that I share with you the President's vision for homeownership. Homeownership and the ability to build equity in one's home is an important component in the development of strong tribal communities for generations to come. Creating homeownership opportunities continues to rank at the top of the Administration's priorities for the American people, and nowhere is this more important than in the Native American community.

In 2002, the President established a goal of adding 5.5 million new minority homeowners by the end of the decade. Since then, we have added 2.6 million new minority households; 455,000 in fiscal year 2005 alone. The greatest proportional gain among new minority homeowners in fiscal year 2005 came from the category that includes American Indians, Alaska Natives and Native Hawaiians. The overall minority homeownership rate at the end of fiscal year 2005 was 51.2 percent—the highest it has ever been.

Section 184 Accomplishments

HUD's Section 184 Indian Housing Loan Guarantee program has made a significant contribution to the overall success of the Administration's homeownership initiatives. This program provides a federal guarantee to lenders for 100 percent of the principal and interest on market rate loans to Native American homebuyers. In fiscal year 2006, Congress appropriated $3.96 million in credit subsidy, which could guarantee over $116 million in loans. The President's budget request for fiscal year 2007 asked for $5.94 million, which could guarantee up to $251 million in loans. The House has recommended that the Section 184 program be funded at last year's level of $3.96 million, while the Senate recommends the President's request of $5.94 million. There has only been one rescission during the life of this program.

Section 184 loan activity for the past fiscal year shows that tribes and TDHEs are using this program with increasing frequency. In fact, in fiscal year 2005, we increased the number of loan guarantees to 634, representing $76.8 million in mortgage guarantees. So far in this Fiscal Year, HUD has guaranteed 893 loans. Since the beginning of the program, we have completed more than 3,465 Section 184 loan guarantees.

The rate of loan obligations confirms that the Section 184 program is making homeownership possible for more and more Native Americans, and at very little cost to the federal taxpayer.

The Office of Native American Programs has made a number of enhancements to HUD's Section 184 Program. I believe these improvements will make it easier for tribes and individual borrowers to access mortgagee financing.

In the past, lenders have stated that reservation housing markets are non-existent. To correct this misperception, ONAP's Office of Loan Guarantee has instituted new refinance options to support the development of a housing market.

Mutual Help Homeownership Program participants who have lived in their homes for at least a year may now:

- Apply for a cash-out refinance loan to pay off the Mutual Help and Occupancy Agreement;
- Make improvements to the property; and
- Consolidate their consumer debt.

Secondly, tribes may now apply to refinance homes built with Indian Housing Block Grant funds or tribal dollars, as long as the proceeds are designated for future affordable housing activities.

I believe these are positive changes and that they help ensure that the Section 184 program continues to play a vital role in the Department's homeownership efforts in the coming years, so I ask you to work with us as we strive to increase the number of Native American families who realize the American dream of owning their own home.

The Importance of Leveraging Federal Funds

When I think of leveraging, the word "collaboration" comes to mind. NAHASDA's Indian Housing Block Grant program continues to be the largest single source of housing capital in Indian Country. The IHBG program, which came on-line at the beginning of fiscal year 1998, has now distributed over $5.7 billion in funding to tribes or their TDHEs.

But relying on IHBG funding alone – without leveraging those dollars – misses a significant opportunity. We need to continue exploring new ways to combine HUD resources with those of other federal agencies, the states, and the private sector.

Title VI Program

Although it has been in existence since NAHASDA became law, the Title VI Tribal Housing Activities Loan Guarantee Fund continues to be underutilized. Those tribes and tribally designated housing entities with no significant audit findings can borrow up to five times their annual Indian Housing Block Grant allocation and use their future IHBG funds as collateral to back up a market rate loan. HUD will provide a 95 percent federal guarantee to a lender in the event of a default.

The flexible nature of the program makes it possible to finance any eligible activity for a period up to 20 years. Title VI has proven to be a cost effective source of gap financing during the early stages of a development project. For example:

White Mountain Apache Housing Authority borrowed $5 million in two separate Title VI loans to provide infrastructure for the "Apache Dawn" housing development project. The Water Infrastructure Financing Authority of Arizona, or WIFA, funded the Title VI loans in the amount of $3 million and $2 million respectively, from its Drinking Water and Clean Water Revolving Loan Funds. Apache Dawn used a $25 million Ginnie Mae collateralized, tax-exempt bond to fund 320 single-family homes using Section 184 guaranteed mortgages. The White Mountain

Housing Authority's project demonstrates the benefits of mixing federal loan guarantees with state financing vehicles to lower the interest rates and thereby increase the economic viability of this large-scale project.

To date, $95.2 million in Title VI financing has been leveraged with funding from other sources to produce 1,474 housing units with a total investment of $132 million in affordable housing.

Title Status Reports and the HUD/BIA/USDA Memorandum of Understanding

The homeownership rate among Native Americans, while at all-time highs, lags behind that of the rest of the country. Although there are a number of contributing factors, streamlining the TSR process and increasing the level of homeownership and credit counseling will contribute to the evolution of a more vibrant housing market in Indian Country.

In a combined effort to increase the homeownership rate in Indian Country, address affordable housing needs, and promote mortgage financing, my office, the BIA, and USDA Rural Development signed an MOU to work together with tribes to provide housing development and related assistance to all sectors of Indian communities. A major aim of the MOU, which was signed in September of 2004, was to obtain a commitment from the BIA to expedite the production of Title Status Reports, or TSRs, a necessary document for the mortgaging of trust or restricted Indian lands.

The BIA released an interim TSR processing policy on September 29, 2005, that established the use of a title endorsement in place of a second certified TSR in leasehold mortgage transactions. In theory, the use of a title endorsement to update a title report brings the TSR process closer to title insurance industry standards and practices. This policy, however, was not implemented universally by BIA regional offices, and the document itself fell short of the generally accepted standards of title insurers.

Lenders continue to express concern about the length of time it takes to process leasehold transactions. The discussion has focused on the potential costs to the borrower, who is subject to interest rate fluctuations due to market conditions while waiting for the Bureau to complete the TSR process. While progress has been made, there continue to be inconsistencies from region-to-region in the time it takes to process a TSR request.

In an effort to reach our common goals, I met recently with Interior Associate Deputy Secretary James E. Cason to determine if there is more that we can do together. At that meeting, Deputy Secretary Jim Cason restated the BIA's commitment to streamlining the TSR process, and I agreed to a plan to assist them in resolving the current backlog of TRS requests. HUD drafted and submitted to the BIA a new title endorsement document that addresses the deficiencies in the previous title endorsement document. In addition, HUD has offered to collaborate with the BIA in order to develop and facilitate a series of regional training sessions for BIA personnel stressing the importance of the uniform implementation of the TSR process to ensure a consistent application of the BIA's policy.

In summary, the TSR process has room for improvement. But, through our partnership with the BIA, it is also evolving well. We look forward to working with the Bureau to develop solutions to further streamline the TSR process. HUD is committed to supporting homeownership education programs and is working with the BIA and USDA to develop some successful models that demonstrate the benefits of a collaborative interagency initiative.

NEW ONAP INITIATIVES

I'd also like to mention some of our other Native American initiatives. In the early years of our loan guarantee programs, most banks thought there were no housing markets on reservations. I am pleased to say that this is no longer the case. In addition to our Section 184, Title VI and Indian Housing Block Grant programs, we've begun some new initiatives that were unthinkable just a few short years ago. One of them is tax-exempt bond financing.

Tax-Exempt Financing

I have asked ONAP's Office of Loan Guarantee to work with the Public Housing Capital Fund's Bond Counsel, and bond rating agencies, to develop a tax-exempt financing instrument with characteristics similar to HUD's Capital Fund Financing Program. This tax-exempt financing will make it possible to leverage Indian Housing Block Grant funds to issue bonds, notes, loans and other financial instruments for affordable housing, including model activities. Once this happens, tribes and TDHEs will be able to borrow private capital and pledge a portion of their future IHBG funds to make debt service payments for either a bond or conventional bank loan transaction.

What is the significance of this type of financing?

- Tribes will be able to pledge up to one-third of their annual Indian Housing Block Grant allocations to make principal and interest payment on tribal bonds.

- The financing instruments are not guaranteed by the federal government, and therefore are not subject to appropriated subsidy rates and caps. The program could be used for any affordable housing activity and is subject to NAHASDA's income restrictions.

Once the program's procedures are finalized, ONAP would market the program and provide any required technical assistance.

Land Assignment Law

We are currently working collaboratively on another effort, the land assignment law initiative, which is designed to increase the private-sector housing market on reservations. Through the use of land assignment law, a tribe will be able to issue a land assignment to a tribal member that is not subject to the 50-year statutory limitation on encumbrance. The Office of Native American Programs and the BIA have worked with the Mashantucket Pequot tribe to establish a model tribal land assignment law. Interior's Solicitor's Office has approved the process and issued an

opinion that individual assignments governed by tribal land assignment law do not require BIA approval or recordation.

A national title insurance company is prepared to issue title opinions on the assignments, creating the necessary mechanism to perfect a lien on the assignment. The tribe must develop an approved process to record assignments that meets the title company's requirements. ONAP will issue program guidance on land assignments for the Section 184 program in the coming months, and we expect other tribes to take advantage of this innovative process.

Environmental Review Process

Tribes may assume environmental review responsibilities, or designate HUD to do so on their behalf. Some tribes believe HUD's environmental review requirements are unduly burdensome, and that different federal agencies require duplicative reporting. NAHASDA's environmental review provisions were amended to permit a "good faith waiver" for inadvertent errors that are capable of correction, if the error does not threaten the health or safety of the Native American community. HUD is in the process of streamlining the waiver process, and we have asked the Assistant Secretary for Policy Development and Research to undertake a study comparing the various Native American environmental review requirements among federal agencies. The ultimate objective is to see if there is duplication, and if there is, to seek standardization of federal environmental review requirements for Indian tribes.

CONCLUSION

Let me state for the record that the Department is working toward eliminating all barriers to homeownership for Native Americans. We're working with tribes and their housing entities to share innovative approaches to housing development in Indian Country, and to make the dream of homeownership a reality.

This concludes my prepared remarks. Again, thank you for allowing me to testify. I would be happy to answer any questions you may have.

For release only by the
House Committee on Financial Services
July 31, 2006

Statement of Edward (Eddie) Browning, Arizona Rural Development State Director, before the Subcommittee on Housing and Community Opportunity

Hearing on Removing Barriers to Homeownership for Native Americans

Mr. Chairman, Members of the Subcommittee, it is a pleasure to welcome you to Camp Verde, Arizona for this important discussion on removing barriers to homeownership for Native Americans.

USDA Rural Development's mission is to increase economic opportunity and improve the quality of life in rural communities. Rural Development plays a pivotal role in ensuring that rural Americans share in the economic vitality of this country, including the dream of homeownership. Nowhere is that dream more of a challenge than on our Native American lands.

Arizona has 21 recognized Tribes – from tiny Tribes with little or no tribal land to the Navajo Nation, the biggest reservation in the country, with portions of the reservation in three states.

The President's Minority Homeownership Initiative has been an incentive to help meet our commitment to expand rural minority homeownership. Our staff in Arizona has worked to create innovative ways to ensure that we keep that commitment and maximize our impact. We have done this by targeting our resources, holistic approaches to community building, and the development and strengthening of partnerships.

Barriers to Homeownership on Native Lands

The barriers to Native American homeownership are suggested by an ownership rate on the reservations of slightly more than 40 percent as compared to a national average of 68 percent. There are several contributing factors. One is the trust land issue. Simply stated, when land is owned by the tribe and held in trust by the United States government rather than owned outright by the individual, there is no collateral for a traditional mortgage. A second issue is the lack of economic opportunity. With a per capita average income on our largest reservation at $7,300, simply being able to make regular mortgage payments is a major stumbling block to homeownership. Other barriers include a lack of existing housing stock, weaknesses in credit worthiness, and a shortage in many Native American communities of housing professionals such as realtors, mortgage bankers and credit counselors.

The remoteness of many of the families in need compounds the difficulty both in providing the services and materials to build or repair a home, and in reaching Native American customers in order to inform them about the help that may be available.

Outreach efforts are further complicated because Native American clients have to navigate the confusing maze of federal program information. Many resources are available through Rural Development and other Federal agencies, it just takes a lot of experience and knowledge to quickly arrive at the correct resource.

Overcoming the Barriers – Locally

Rural Development in Arizona has been focused on encouraging homeownership on Tribal land. For the past decade we have targeted Native American communities for housing and other community and business services.

Currently, 10 percent of Arizona Rural Development staff is Native American. Our office in St. Michaels on the Navajo Nation is staffed by Navajo personnel who are culturally aware and speak Navajo. In 2005, despite the remoteness of the Navajo Nation, our staff made 61 outreach visits to engage with Navajo citizens and inform them about the services available through Rural Development – more than one per week. Lewis Shirley, our Rural Development Manager at the St. Michaels Office averages 40,000 miles per year in travel to outreach to the Navajo Nation.

Mr. Shirley not only made many of the outreach visits, but he also saw the need for a coordinated approach to serving the Navajo Nation. He was the impetus behind the formation of a partnership of funding entities in a community called Saw Mill. The partnership was a successful combining of funds from USDA Rural Development, the Department of Housing and Urban Development (HUD), Indigenous Community Enterprises, the local Council of Governments, and the local Chapter House. Its goal was to reduce the cost of housing to the prospective homeowners so that the family would be able to qualify for a home of their own and could afford the mortgage payments.

We were successful in our efforts to locate and pool grant funds from a variety of existing resources. By combining funding from a variety of sources, Mr. Shirley was able to both reduce the risk for any one agency and the amount of the loan – thereby making the payments affordable and breaking down the credit barrier. The plan is to replicate this model for other potential homeowners.

Among the other steps taken to break down cultural and communications barriers to homeownership is our funding of Native American non-profit organizations to help package loans. The involvement of local organizations in the application process is invaluable, as it is a tremendous help in seeking and educating prospective homeowners on the process of becoming successful homeowners.

Overcoming the Barriers – Nationally

USDA Rural Development recently developed a guide for lending on Native American lands. The guide is designed to speed up the closing of mortgage loans on trust land and exemplifies USDA Rural Development's continued commitment to expand rural minority homeownership. This new guide was developed to help train Rural Development employees and highlights the many laws, programs, Memorandum of Understandings (MOU's), policies and initiatives on Indian housing. Additionally, the guide provides step-by-step guidance on how to actually close Rural Development housing loans on trust land. Furthermore, the guide has built in flexibility that allows states to modify or add steps to fit local, tribal or the Bureau of Indian Affairs uniqueness.

Another recent event is the new Rural Development Internet site specifically designed for Native Americans and Alaska Natives. The site is a useful tool for both Rural Development employees, as well as prospective recipients of Rural Development funds. It includes, success stories that highlight tribal projects and examples of tribal members accessing Rural Development's programs, useful publications, reports and resources related to American Indian/Alaska Native economic and community development, and helpful links to USDA, Federal, and non-profit Internet sites.

Rural Development has also partnered with the Bureau of Indian Affairs and HUD's Office of Native American Programs to enter into an MOU to improve mortgage lending on trust lands. That MOU was signed by the respective agencies during the last week of September 2004. The understandings of that MOU provide a framework for cooperation among the agencies providing mortgages on Native American land.

Also at the National level, an Executive Memorandum dated August 6, 1998, directed the Secretaries of the HUD and the Department of the Treasury to develop recommendations to help streamline mortgage lending in Indian Country. These recommendations have been developed into a report entitled "One-Stop Mortgage Center Initiative in Indian Country." Historically, Federal agencies had required tribal governments to submit separate and often different lease documents for participation in each Federal single-family loan program. As a result of the "One Stop Mortgage Center Initiative in Indian Country" report, a model interagency lease and a tribal application approval process were developed that are acceptable to HUD, USDA Rural Development, Veterans Affairs, and the Bureau of Indian Affairs.

Other Rural Development Programs on Native American Land

While developing housing for Native Americans, Rural Development has taken care to help create community facilities, infrastructure and economic opportunities for the Native American communities near where the homes will be built.

Through our community facilities program, in the past decade we have financed on Arizona Tribal lands community centers, senior centers, hospitals, schools, clinics, water treatment plants, cultural centers, and first responders facilities. Our business programs have funded tribal business parks, motels, restaurants, and revolving loans funds for small businesses.

Millions have been invested since 2001 in utility enhancements on Arizona reservations, including expanding broadband capabilities to some of our most secluded areas. We have funded telephone systems, water systems, telecommunications, distance learning and telemedicine projects on Tribal lands across the state. One of the nation's first Section 9006 Energy Efficiency loans was to the Gila River Indian Community in Arizona last year. By creating healthy communities on the reservations, we are ensuring that our housing projects will be occupied by folks who also enjoy the kinds of community infrastructure upgrades that the rest of the nation does.

The Results

The real test of our commitment to removing barriers to Native American homeownership is how well we have been able to do our job – in other words, have we created clean, safe, affordable housing for Native Americans in Arizona? Our record shows that we have.

The Local Record – Rural Development Funding for Native Americans in Arizona

Fiscal Years 2001-2005

Homeownership

- Rural Development made nearly $2,213,409 in Single Family Housing loans and Home Repair grants for single family housing on Indian lands in Arizona
- Housing Preservation grants totaled $600,545
- Technical Assistance grants to non-profits to provide homeownership counseling totaled $885,935

Other assistance

- Multi-family Housing loans equaled $6,800,000 – for 258 units of affordable housing on Arizona reservation land
- Rental Assistance – grants to lower the monthly rental cost to low-income residents – totaled more than $3,998,352 for Native Americans in Arizona
- Through the utilities section of USDA Rural Development, we have funded $4,860,220 in electric, telemedicine, distance learning, telephone, and broadband projects on Indian land
- Business loans and grants in Arizona totaled $14,941,419 for Native American communities
- Community facilities – such as schools, community centers, hospitals – received a total of $6,908,588 for projects benefiting Native Americans
- The Four Corners EC has received $1,442,203
- Water and wastewater projects on Native American land in Arizona totals $22,921,354

In total, Rural Development has provided $65,572,025 for Native American projects in Arizona from fiscal years 2001 through 2005.

The National Record – Rural Development National Funding for Native Americans and Alaskan Natives

In total, during fiscal year 2005, USDA Rural Development invested over $207.3 million to American Indian or Alaska Native clients.

Homeownership

During fiscal year 2005, Rural Development financed 252 homes, totaling approximately $23 million, through the single family housing direct loan program. In addition to that, Rural Development also guaranteed another 278 home loans totaling approximately $25.7 million. Rural Development also provided 260 grants and 124 loans totaling $2.3 million, through the home repair program to assist homeowners repair and improve their homes.

Other assistance

Multi-Family Housing

In fiscal year, 2005 Rural Development financed 10 multi-family properties under the 515 multi-family housing direct loan program, totaling approximately $8.4 million. These 10 projects will provide 238 new rental units.

Housing Preservation Grants

During fiscal year 2005 Rural Development also provided $598,000 to nonprofit organizations, local governments and Indian tribes for 12 projects that will repair 225 homes and rental properties.

Electric and Telecommunications

In fiscal year 2005, Rural Development financed 11 electric loans to rural electric providers, totaling approximately $20.5 million. Rural Development also financed 7 distance learning and telemedicine projects and provided Community Connect grants to 8 organizations. Additionally, Rural Development provided 2 telecommunication loans.

Rural Business Programs

In fiscal year 2005, Rural Development financed 6 businesses through its Business and Industry guaranteed loan program. Those guaranteed loans totaled approximately $14.3 million. Additionally, 2 revolving loan funds that are providing financing businesses were funded through the Intermediary Relending Program. Those loans totaled $950,000. Also, approximately $5.5 million was provided to Indian tribes and non-profits serving Native American clients through the Rural Business Enterprise Grant (47 grants) and Rural Business Opportunity Grant (11 grants) programs. Of these awards, 1 IRP, 27 RBEGs and 10 RBOGs were provided utilizing Rural Business program set-asides for federally recognized Indian tribes.

Community Facilities

In fiscal year 2005, USDA Rural Development funded 71 American Indian/Alaska Native community facility projects. 22 of those projects were grants to tribal colleges funded through set-asides within the CF program for Tribal Colleges.

Water and Waste Disposal

In fiscal year 2005, Rural Development financed 42 water and waste disposal projects for a total of approximately $30 million.

Conclusion

Removing barriers for homeownership in Native American communities presents unique challenges. Hampered by many small clusters of population in some of Arizona's most remote corners, Rural Development staff has worked to partner with other agencies and governments to provide comprehensive services. Many of the barriers are beyond our capabilities to remove. We have used innovative methods to work around those barriers. As a result, in the past decade, Rural Development has provided hundreds of Native American families in Arizona with clean, safe housing.

Much remains to be done. We are working to strengthen our existing partnerships and to create new ones. We are open to developing technologies for home construction and renovation for remote areas. We are forging coalitions with other entities to compound our ability to help.

One of the strengths of Rural Development is the power to create individual strategies for success within the general structure of the national agency. State Directors across the nation are as diverse as the states they serve. And likewise, staff on the ground in Arizona reflects the diversity of the state – from Hispanic to African American to Native American.

Abraham Lincoln called the Department of Agriculture the people's department. Rural Development is working to ensure that that focus on the people reaches even the most remote pockets of our Native American populations.

Thank you for the opportunity to testify this morning. I'd be happy to answer any questions you may have.

TESTIMONY
OF
ALLEN ANSPACH
DIRECTOR, WESTERN REGION
BUREAU OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
FOR THE HEARING
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
U. S. HOUSE OF REPRESENTATIVES
ON
REMOVING BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS

July 31, 2006

Good morning, Mr. Chairman and Members of the Committee. My name is Allen Anspach. I am the Director for the Western Region within the Bureau of Indian Affairs (BIA). I am here today to provide the Department's testimony on the BIA's role in assisting individual Indians in the pursuit of homeownership.

In general, BIA plays a critical role in removing obstacles to building and promoting tribal self-determination, through strong and stable governing institutions, economic development, and human capital development. One aspect of promoting economic development on tribal land is removing obstacles to homeownership opportunities. That is one reason why the BIA has been working with the Department of Housing and Urban Development and USDA Rural Development to streamline and expedite the production of Title Status Reports (TSR). These reports are important to mortgage leaders, since they are a necessary document for the mortgaging of trust or restricted Indian lands. Without these reports, a mortgage lender cannot approve a home loan.

I'll begin by providing some background information on the current process and procedures for obtaining a TSR within the BIA and then comment on this process.

The BIA has Land Titles and Records Offices (LTRO) located within eight of its regions: Anchorage, Alaska; Muskogee, Oklahoma; Aberdeen, South Dakota; Portland, Oregon; Sacramento, California; Billings, Montana; Anadarko, Oklahoma; and Albuquerque, New Mexico. Each LTRO is responsible for recording all title and encumbrance documents for Indian lands within their respective region(s) and issue certified TSRs to provide a record of ownership. A TSR is a compilation of the current ownership, legal description and recorded liens and encumbrances on a designated parcel of land. The production of TSRs for mortgages is our LTRO offices' top priority. We strongly support programs that improve or develop housing on Indian lands for Indian people.

The current procedure requires that all requests for a TSR for mortgage purposes first go through the Agency Superintendent at the relevant BIA office or through the Regional Director on behalf of the tribal member. The certified title is required by the lending institution to verify that the loan applicant has acquired a leasehold interest on Tribal land or that the loan applicant has total ownership on trust land, and that the title is clean and clear of any liens against the property so the loan application process can move forward.

There are very few differences in the production of TSRs from location to location. When there are, often those differences are dictated by the particular lending institution or federal agency providing the loan. Requirements and standard operating procedures vary from federal agency to federal agency. The BIA LTRO's strive to accommodate these differences, as we support the mission to provide home loans to Indian people. Private lending institutions also have varying requirements and procedures, consequently our process for providing TSRs may vary to accommodate the lender.

Over the years, we found that some offices have provided an uncertified title status report showing the mortgage as an encumbrance to the property in lieu of the certified report. On April 13, 2005, BIA issued a directive requiring that all LTROs provide certified title status reports when requested by the Agency Superintendents or Regional Directors.

BIA has qualified and dedicated personnel within the LTRO program to examine and certify land titles and produce TSRs; however, we are the sole-source for Indian trust land records. Because Indian Trust land records are, to a degree, confidential, lending institutions and other federal lenders are completely dependent upon the BIA for all certified TSRs, thus creating a significant workload.

Since the inception of the Federal loan programs, the mortgage requests for certified titles have been a high priority for the LTROs. We have made significant changes to our title program over the past three years aimed at improving our ability to deliver in an accurate and timely manner in all aspects of our Indian land title operations, including the processing of TSRs.

One of the improvements to the BIA Title system is the recently completed conversion to the Trust Asset and Accounting Management System (TAAMS) for processing Titles at all LTRO program offices. The system has greatly improved our ability to provide title information to tribes and Indian people. The quality of the data has been significantly improving. We have been conducting a comprehensive data cleanup, which has been coordinated with the deployment schedule for the TAAMS leasing module. The leasing module is planned for complete deployment in November 2007.

The BIA process for providing TSRs upon request within a 30 day time frame for the regions has been reasonably effective and efficient in the past but will improve substantially in the future. In August 2006, the BIA will begin implementation of a new TAAMS functional component: the TAAMS Image Repository. The objective of the Repository is to store all documents affecting and concerning titles to Indian trust and restricted lands. In addition to deeds, probate orders, leases, easements, and other title

documents, the Repository will also store all TSRs and will be the primary mechanism for the delivery of TSRs and other title products and reports to agency-field offices and other offices with access to TAAMS. The Repository will also be the primary mechanism for submission of title documents for recording at the LTRO program offices. With the completion of title data clean-up and with title data maintained in an up-to-date status, TSRs will be processed upon request and delivered electronically to the requesting office immediately upon completion and certification. This modernized process will reduce the time from TSR request to TSR delivery from weeks and days to hours and minutes – a substantial improvement.

On September 29, 2005, the Director for the BIA issued an interim policy on Certified TSRs. The policy requires TSRs to be issued for each pending realty transaction that is requested by the Superintendent or Regional Director who has jurisdiction over the lands within 30 days. The duration of this policy is dependent upon the elimination of backlogs and the cleanup and validation of data in TAAMS at each LTRO. Per this memorandum, the Real Estate staff must obtain a certified TSR to approve the following types of transactions:

- Mortgage of lands and leaseholds
- Land sales where there are more than two landowners

The staff does not have to obtain a certified TSR to approve all other types of real estate and other transactions. In order to streamline the mortgage process and ensure the BIA meets the agreed upon requirements, the following procedures will be adhered to:

1. The LTRO will prepare a certified TSR upon request for the mortgage of trust lands.
2. The LTRO will send the certified TSR to the originating requestor.
3. The agency/regional office will prepare the leasehold document and all other documents required to clear the title such as lease cancellations and collect mortgage satisfactions.
4. The agency/regional office will submit all documents along with the approved mortgage to the LTRO's for recording.
5. The LTRO will return the recorded documents to the originating office.
6. In lieu of a subsequent certified TSR, the agency/regional realty officer will provide a signed endorsement which certifies that from the date of the last certified TSR these recorded title documents have been applied to the title as shown by the official Federal system of record for land title ownership, encumbrance of Indian trust and restricted lands, and there have been no intervening liens or encumbrances. Updates of the endorsement document are done for the benefit of the homeowner.

This concludes my statement. Thank you for the opportunity to appear before you today. I will be happy to answer any questions you may have.

Steven Barbier, Management Consultant III
Neighborhood Reinvestment Corporation
doing business as
NeighborWorks® America
Before the
U.S. House of Representatives Committee on Financial Services
Subcommittee on Housing and Community Opportunity
Removing Barriers to Homeownership for Native Americans

July 31, 2006

Good morning, Chairman Oxley, Ranking Member Frank, and Subcommittee Chairman Ney, Ranking Member Waters and the rest of the Members of the Committee. My name is Steven Barbier, and I am a Management Consultant for Neighborhood Reinvestment Corporation which is currently *doing business as* NeighborWorks® America.

I am here today to testify on behalf of NeighborWorks® America with respect to our work on Native American issues. I will also discuss the strategies Neighborhood Reinvestment Corporation deploys to tackle homeownership barriers in Native American communities, including our role in launching a Tribal Land Title and Recordation Office (LTRO) Study.

Overview of Neighborhood Reinvestment Corporation *doing business* as NeighborWorks® America

NeighborWorks® America evolved from a 1972 effort by the Federal Home Loan Bank Board to increase thrift-industry lending in declining neighborhoods. NeighborWorks® America, a public nonprofit organization, was chartered by Congress in the Housing and Community Development Amendments of 1978 (Public Law 95-557). NeighborWorks® America's involvement with local housing and community development organizations supports residents, businesses and local governments in their efforts to revitalize their communities.

NeighborWorks® America:

- Assists existing NeighborWorks® organizations to expand their geographic and programmatic scope and helps other organizations to become chartered members of the NeighborWorks® network through extensive educational and partnership-building efforts that involve residents, business leaders and government representatives;

- Supports NeighborWorks® organizations with funding for capital projects and operations to enable them to create and build their own community-revitalization initiatives from a solid asset base;

- Provides a high degree of managerial advice and technical assistance to NeighborWorks® members to better reach underserved communities;

- Assesses NeighborWorks® organizations in terms of their capacity to successfully manage their resources and programmatic risks; and

- Offers training throughout the United States for individuals interested in affordable housing and community revitalization, particularly private and public-sector practitioners and community leaders.

The NeighborWorks System

NeighborWorks® America is one of three interrelated components of the NeighborWorks® System to fulfill a coordinated mission to promote locally directed community revitalization and expand affordable-housing opportunities in communities across the nation. The other two include:

- **The NeighborWorks® network** which is collaborative group of community-based nonprofits that has evolved from a few organizations to more than 240 members active in more than 4,400 communities across the country today. NeighborWorks® organizations operate in our nation's largest cities, suburban neighborhoods and rural areas across all 50 states, Puerto Rico and the District of Columbia. Regardless of their target communities, NeighborWorks® organizations function as partnerships of local residents, lenders and other business leaders, and representatives from local government. Members of the NeighborWorks® network produce creative strategies, collaborate on best practices, and develop flexible financing mechanisms and;

- **Neighborhood Housing Services of America** which works in partnership with NeighborWorks® America to meet special secondary market needs of NeighborWorks® organizations and their clients.

For nearly 30 years, the NeighborWorks® System has proven to be an increasingly effective and efficient vehicle for leveraging significant private-sector resources in support of community revitalization and affordable-housing efforts. The NeighborWorks® System relies on public-private partnerships, the leveraging of federal funding, and flexible revolving loan funds to achieve its results. Innovations that are generated in response to locally identified needs are a hallmark of the NeighborWorks® System.

I also want to take this time to thank the Committee for its support of NeighborWorks® America's appropriation of $119.7 million for fiscal year 2007.

NeighborWorks® America is a champion for homeownership opportunities in underserved communities.

The effort to expand homeownership and economic opportunities is important to all Americans. NeighborWorks America has worked for the past twenty years on expanding homeownership opportunities and provides homeownership opportunities to underserved individuals and families. For example:

- Approximately 67 percent of the households assisted by the NeighborWorks® Campaign for Home Ownership have low or very low-incomes, compared to 25 percent of the clients of conventional mortgage lenders;

- Approximately 51 percent of the households assisted by the NeighborWorks® Campaign for Home Ownership are ethnic minorities compared to 25 percent of the clients of conventional mortgage lenders;

- Approximately 46 percent of the buyers assisted by the NeighborWorks® Campaign for Home Ownership are female, compared to 21 percent of the clients of conventional mortgage lenders.

NeighborWorks America creates homeownership opportunities in a number of highly effective ways:

NeighborWorks® Campaign for Home Ownership is a joint effort of government, banks, the insurance industry, secondary markets, the real estate community and others, coordinated by NeighborWorks America in conjunction with more than 158 community-based NeighborWorks organizations. Since 1993, the Campaign has created more than 90,300 new homeowners.

NeighborWorks Homeownership Centers
To date, NeighborWorks America has supported the development of over 90 NeighborWorks HomeOwnership Centers throughout the nation. These centers are one-stop shops for a broad range of homeownership services available to low and moderate-income families. These Centers can assist potential homebuyers with information, unbiased advice, counseling, training, and referrals to partners such as real-estate agents, inspectors, contractors and more.

Financial Literacy and Predatory Lending
To assist homeowners that could face the threat of being assaulted by aggressive and sophisticated predatory-lending tactics and to counter this threat for potential homebuyers, NeighborWorks America stresses the importance of homeownership education and counseling. Through its Financial Fitness program, NeighborWorks America and members of the NeighborWorks network prepare families to build sound finances. The intent of Financial Fitness is to give participants an understanding of basic finances and healthy banking relationships. This benefits both the individual and their communities to help them become successful homebuyers. Over 15,000 individuals, predominantly female, from low or very low-income households have graduated from the financial fitness program.

Center for Foreclosure Solutions
NeighborWorks® America and the NeighborWorks network are dedicated to expanding and preserving homeownership opportunities across the country. Over the past ten years, there has been a dramatic increase in high risk lending, excessive consumer debt and job instability which are trademarks of susceptibility to foreclosures. NeighborWorks® America has established the Center for Foreclosure Solutions to support initiatives to reduce foreclosures and its many negative impacts on borrowers and communities across the country.

The NeighborWorks® Center for Homeownership Education and Counseling
Although the value of homeownership education and counseling to homebuyers is supported by research and is increasingly recognized as a powerful tool to promote neighborhood revitalization, the quality is uneven and the coverage insufficient. There are few national certification standards and limited continuing education requirements. To address these concerns, through the nationally recognized NeighborWorks® Training Institute, lthe Center for Homeownership Education and Counseling (NCHEC) was launched in 2004. The mission of NCHEC is to work with industry partners to train, certify and support homebuyer educators and housing counselors nationwide to promote quality standards for homeownership education and counseling and to provide expanded training and certification opportunities for existing counselors.

Neighborhood Reinvestment Corporation – Native American Work

NeighborWorks Training Institute Native Community Development Training Program
NeighborWorks® America provides training and capacity building. By December, 2008, *500* Native community development practitioners will have attended the *Wells Fargo Native Community Development Training Program* at the NeighborWorks® Training Institute taking classes developed specifically for Native communities in subject areas of homebuyer education, financial fitness, organizational development, and leveraging resources and affordable housing development.

NeighborWorks® Network Affiliates
A number of rural and urban NeighborWorks® organizations have developed partnerships with tribes to promote homeownership. The Montana Homeownership Network through the Montana Native American Homeownership Task Force provides a variety of financial and technical resources to seven tribes in Montana. In Oklahoma, Little Dixie Community Action provides technical assistance on the USDA Rural Development Self-Help Model for a number of tribes and tribal non-profit organizations. Other Network partnerships exist in Alaska, Hawaii, with efforts just beginning with the Wind River Tribes in Wyoming. Urban programs focused on Native Americans exist in Great Falls, MT, and Phoenix, Arizona.

Navajo Partnership for Housing – A Native NeighborWorks Affiliate
In 1995 Neighborhood Reinvestment Corporation was invited by the Navajo Nation Divisions of Economic Development and Community Development to assist in the

creation of a non-profit organization that could focus on mortgage-based homeownership opportunities for Navajo families. The Navajo Partnership for Housing, Inc.(NPH) is a partnership of financial institutions, local government representatives and residents of the Navajo Nation with a mission to provide innovative and flexible homeownership financing opportunities on or near the Navajo Nation and empower Navajo families with new knowledge, skills and understanding which will enable them to build, buy or renovate a home. A larger goal is to create an environment where Navajo families have the same *access to mortgage credit* that other Americans living off reservation have.

NPH became a chartered member of the National NeighborWorks® Network in 1998 and was certified as a Native Community Development Financial Institution in 2003. With the assistance and support of their many partners including the Navajo Nation and Navajo Housing Authority they have conducted over 10,000 homebuyer orientations, graduated over 2,500 families through their homebuyer education program, launched a Navajo Nation wide financial literacy program, two free tax preparation sites and an Individual Development Account program.

To date 225 families have purchased homes through NPH for a total investment of $20.6 million dollars.

The bad news is that it should have been many more. Certainly many families come to homebuyer orientations to learn about mortgage-based homeownership and many self-select out for a variety of reasons including credit requirements, entry cost requirements, and typical monthly housing costs compared to other options such as mobile homes or low rent public housing. However, an even larger number of families have had to abandon their dreams of homeownership because of delays in modifying the homesite lease to allow for mortgages, waiting for Title Search Reports (TSR) and/or mortgage packages to be processed.

According to NPH, the average time from the day a Navajo family walks in the door and applies for homeownership assistance to the date of loan closing is still about 24 months. In addition to that time frame, it takes an additional six to eight months to receive the final TSR showing recording of the lien with the Bureau of Indian Affairs (BIA). In comparison, the recording of the closing with the county usually happens the day of loan closing. NPH reports that there has been some improvement at the Title Plant level and that the large part of those delays rest at the Agency level where BIA offices appear to be understaffed, perhaps under-trained, or have not been able to make the processing of mortgage related TSR's a priority. The process continues to require numerous phone calls and even visits to move the paperwork through the system.

From the perspective of the lender, processing a mortgage loan on tribal trust land is expensive. First the lender obtains credit and income documentation, which is only valid for 90 days; the TSR is ordered and only valid for one year; and the appraisal is ordered and valid for six months. By the time all of this documentation is compiled, much of it has expired and the lender has to begin updating everything again. This causes delay and frustration to the lender and the borrower.

It is critically important that we continue to *level the playing field* between on reservation mortgage transactions and off reservation mortgage transactions to: a) provide Native Americans housing choice, b) allow tribal communities to utilize housing development as a component of their economic development strategy; and c) promote livable communities with income diversity.

Tribal Land Title and Recordation Office (LTRO) Study

Mr. Chairman, I would like to commend you and your Subcommittee for focusing on the important issue of expediting TSRs for Indian land. As you know, the ability to obtain clear title to secure financing for homeownership and economic development projects is essential in today's financial marketplace.

NeighborWorks® America and many other entities including tribal governments, lenders, federal and state agencies, and other local and national intermediaries have been committed for many years, along with the members of this Committee, to improving homeownership and economic development opportunities in Native communities. We have dedicated time and resources to improving homebuyer readiness, designing innovative mortgage loan products, identifying sources of down payment and closing cost assistance and developing affordable housing stock. Many organizations have also sought to build the capacity of Native entrepreneurs to help them develop viable business plans and secure the capital necessary to start micro-enterprises and small businesses.

The success of these efforts has been stymied by the delays and bureaucracy associated with the BIA residential and business site leasing and TSR processes. While we recognize that the Bureau of Indian Affairs is obligated to fulfill its trust responsibility to Indian tribes and individuals, it cannot do so effectively because the existing BIA Land Title and Recordation Office records management system was not designed to operate in the time necessary to accommodate residential and commercial business financing transactions.

Mr. Chairman, based on our experience working with Native communities, NeighborWorks® America and many of our partners have identified the need to expedite the TSR process as a priority issue. Accordingly, we have set aside seed money to initiate a more comprehensive analysis of the options and considerations for tribes that wish to assume their own title functions, rather than rely on the BIA. Last month, we convened a group comprised of Indian land and financing experts at the Pueblo of Santa Ana, just north of Albuquerque, NM, to determine how we can assist in this area. During the two-day meeting, we consulted with representatives from tribal government who have already undertaken some of these steps, and we discussed what information might be helpful to compile and disseminate more broadly to tribal governments.

One of the outcomes of this meeting was to launch a Tribal Land Title and Recordation Office (LTRO) Study. We are pleased that the National Congress of American Indians and First Nations Development Institute have agreed to co-direct the study, and they are in the process of developing their research strategy now. The purpose of the study is to

provide tribes with a range of options to expedite land title processing that would strengthen sovereignty and promote economic development. It will examine the economics of managing LTRO functions and address operational issues such as cost feasibility, necessary administrative and staffing capacity, and technology requirements.

We anticipate that we will have preliminary results over the next six to twelve months, and we would be happy to share our findings along the way in order to contribute to the legislative process where appropriate.

The efforts underway with the Memorandum of Understanding between BIA, HUD, and USDA to streamline the mortgage lending process on Indian trust land are commendable. However, this is only part of the solution. NeighborWorks® America and our partners on the LTRO Study Committee urge Congress to enhance tribal governments' authority to manage all or a portion of their own land title functions and provide adequate resources for tribes to be able to assume these functions from the BIA.

Mr. Chairman, this Committee has aggressively pursued actions to improve affordable housing opportunities for all Americans. We hope that you will continue to tackle the issue of improving the TSR process on Indian land which will go a long way to furthering homeownership and other economic development opportunities for Native Americans.

We appreciate the opportunity to testify on this important topic, and I would be happy to answer any questions you may have.

CHESTER CARL
CEO
NAVAJO HOUSING AUTHORITY

TESTIMONY BEFORE THE

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

"REMOVING BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS"

JULY 31ST, 2006

CAMP VERDE, ARIZONA

[NOTE: This testimony is provided as prepared. Testimony delivered by Mr. Carl to the Subcommittee may differ in some respects and cannot reflect responses to questions from Members of the Subcommittee.]

Good morning, Mr. Chairman. Thank you for this opportunity to testify before this committee on the issue of barriers to homeownership. You have assembled a distinguished list of witnesses and I am proud to be sitting with such witnesses.

I would like to personally thank you, Ranking Member Frank and Congressman Renzi not only for this hearing, but for your continued efforts on behalf of Native families. The problems we face in Indian Country and that you have asked us to testify about are not problems that can be solved with a single hearing or a few changes in laws, regulation or personnel. The elaborate, complicated and confusing system under which we operate on trust land is the result of centuries of different policies, some well-intentioned, some designed to "integrate" Indian people and others that were meant to destroy our way of life.

The fact that this committee continues to hold hearings, that you and your staff continues to ask questions and more importantly demand answers is a testament to your desire to make real change and I both applaud and thank you for that.

In the last two hearings we talked about the challenges we face and today you have heard further testimony about barriers to homeownership. These barriers are real, but they are not the first barriers we have had to overcome. For years we were told that private lending on reservation land was impossible because of the trust status of the land, the fact that the land cannot be alienated and therefore has no value. When advocates pointed out that large swaths of Hawaii and even the City of London, one of the great economic capitals of the world, operated through leases, we were told that the length of leases was a problem.

So, in 1996, as part of the original Native American Housing Assistance and Self-Determination Act, this Committee, under the leadership of your predecessor Rick Lazio of New York, changed the length of a lease on trust land from 25 years to 50 years. It was argued at the time that a 50-year lease would make Indian Country more appealing to lenders because a lease-hold interest would have value even at the very end of a 30-year mortgage. Like so many other improvements and changes in law, this change did not cause a stampede of lenders to Indian reservations.

NAHASDA itself was meant to be a boon for homeownership in Indian Country. Finally tribes could make homeownership a priority. Tribes could create and operate their own homeownership training and credit counseling programs, could create innovative new downpayment assistance programs and tailor programs to fit their communities. But the dramatic increase in homeownership did not happen. Even after subsequent amendments that created economic development demonstration authority, the promise of NAHASDA in the area of homeownership has not been fulfilled.

Despite the fact that NAHASDA claims to provide similar authority to that given tribes in Public Law 93-638, the act is not specific enough in what that authority should be and therefore leaves such interpretations up to staff at the Department of Housing and Urban Development.

The staff at HUD, like so many government employees, must walk a thin line between providing authority and flexibility to tribes and operating a program that will not be criticized by watchdogs such as the Inspector General. Too often this breeds caution on the part of HUD and this caution is the enemy of creativity, which was the underlying principle behind the creation of NAHASDA.

Your committee can address that problem when it reauthorizes NAHASDA next year by giving specific authority to the tribes so HUD employees are not left to interpret what flexibility the Congress really meant to grant recipients of NAHASDA funds. The lack of specificity in the original law was meant to be freeing, but it has produced stagnation and created tension between those of us at tribes who see broad authority given to us and the HUD overseers who remain concerned that if they allow too much freedom that they will be criticized by the IG, OMB or even Congress. As strange as it sounds, in this instance I believe specific authority will provide more flexibility.

Even if we address the problems at HUD, however, we remain stymied by the systems at the Bureau of Indian Affairs. This committee has heard many times about the absurdly long time it takes to process Title Status Reports. The TSR is the equivalent of a report of clear title. I am glad to see the American Land Title Association on the panel today because it seems as though nearly every county government in the United States has figured out how to maintain records and provide timely information, yet the federal government cannot.

Countless times BIA has promised reforms. Countless times BIA has initiated new efforts, created task forces and sought the input of tribes. But this is still an impediment to homeownership and economic development in Indian Country and it is one of the most difficult to comprehend. How can an agency continue to appear before Congress time after time and give the same answers? The same answer you heard today, that improvements are coming, that hope is on the horizon, was the answer given a decade ago.

When BIA created the Trust Asset Account Managements System, commonly called "TAAMS," we had hope. But despite the efforts of dozens of tribal leaders and advocates, the promise of that system remains completely unfulfilled. It is another in a long series of failed efforts.

The systems and personnel at BIA are overwhelmed. Transferring authority to individual tribes is the best way to both reduce the burden on BIA systems and staff and allow tribes who are moving ahead to operate their own systems more efficiently. The recent authority granted to the Navajo Nation is a step in this direction and one that I do not believe would have happened so quickly without the pressure put on BIA by these hearings.

While Navajo has been able to join tribes like the Confederated Salish and Kootenai in taking control of this function, many more tribes who have contracting or compacting

authority do not have the systems or resources necessary to take over the function. If they had assistance, both in financial and technical terms, they could take this on. Having more tribes operating their own title plants would not only increase the effectiveness and reduce delays at their tribe, it would free up BIA staff to focus on requests from the remaining tribes who have not taken on the responsibility. BIA's argument, that they do not have the personnel or resources, would be put to the test.

Grants of $50,000 to $500,000 should be made to Indian tribes and Indian tribal organizations to develop systems and administer title recordation functions. The purpose of the grants would include tribal legal and regulatory code development, developing facilities to maintain the records themselves, and the development of tribal judicial systems.

But there are other ways in which the Congress can change the very nature of trust land that could be beneficial. I know that any mention of changes in the status of trust land causes consternation for many tribes. We all remember how the termination policies of the past decimated our communities, how land was lost and reservations were "checkerboarded" with much of the prime land alienated from the tribes by swindlers and land agents. This must never happen again.

Nevertheless, we should try to find a way for the land BIA controls, for the land we are part of, to have value because the value of this land can be a stepping stone not just prosperity, but independence for our people. Attempts to replicate mortgage markets on reservation land, for instance, have largely failed because the resale market, or more properly the "re-lease" market, of the land is limited.

While the concept of land is different for Indian people, to succeed in an economic reality of land-based wealth, we must consider changing the way we look at trust land, although always with the goal of protecting the trust status. I propose we create a new kind of trust land called Economic Development Trust Land.

The use of land as collateral is fundamental to the development of both private businesses and mortgage lending. The purpose of Economic Development Trust Land is to allow land to be used for housing and economic development purposes as collateral and to make the land transferable within a larger market without placing the land at risk of alienation.

EDT Land could never be alienated from Indian ownership. While leases could be controlled by individual tribes and the leases themselves could change hands without approval of the Bureau of Indian Affairs, the land could never leave the trust. The only eligible lessees would be tribes themselves, tribal enterprises or tribal members.

Land eligible for placement into EDT would include Tribal trust land as well as land held in trust for individuals and families should they so choose. Leases for EDT land could be transferred by the controlling tribe without BIA approval so long as the new lessee is a federally-recognized Indian tribe, tribal entity or individual member of such a federally

recognized tribe. Under no circumstance could any land be not be taken out of trust except to return it to its former non-EDT status. This land would not become fee land.

If a tribe elected to place land into EDT status, BIA must approve such a transfer within 90 days unless it can show why the transfer would threaten the trust status of the land or the land requested to be transferred was done so without the proper approval of the tribe or individual lessee.

The land would be under the authority of an Indian tribe for lease recordation, environmental assessment and approval, archaeological and historical protection or for other general land use restrictions. The recordation of all leases of EDT land would be performed by the tribe under the contracting or compacting authority of 25 CFR Part 150, therefore limiting participation to those tribes.

I realize that this is a bold concept and one that will require much study and consideration, but I believe to make a real difference in the lives of Indian families we must take bold steps. We should not let another generation of young Indian families come of age in an environment devoid of the kinds of opportunities available elsewhere in this country, without the opportunity for homeownership and all of the benefits that brings.

Again, I thank you for your on-going commitment to these issues and I look forward to working with this Subcommittee and will assist your efforts in any way I can.

Testimony of Pattye Green
Senior Business Manager, Fannie Mae
House Subcommittee on Housing and Community Opportunity
July 31, 2006

Thank you, Chairman Ney, Congressman Renzi, and Members of the Committee.

I am Pattye Green, the Senior Business Manager for Rural/Native American Initiatives with Fannie Mae. I work across Fannie Mae's business lines to develop market strategies that enable us to make investments having a positive impact on the affordable housing market throughout Indian Country. I have over 28 years of mortgage lending experience. Prior to joining Fannie Mae, I was the director of the Home Finance Department for the Housing Authority of the Choctaw Nation of Oklahoma, and I am a Choctaw Tribal Member.

Thank you for inviting me to testify again on the state of affordable housing on tribal lands. I would like to commend you, the Members of the Committee, for your leadership on this issue. Your concern and attention has been and will continue to be critical to the success of efforts to expand homeownership opportunities in the Native American community.

Fannie Mae's Congressionally-granted mission is to expand homeownership, with a special focus on helping underserved Americans. Finding ways to create affordable housing opportunities for Native American families living on tribal lands is one of the toughest challenges we face.

Barriers to Homeownership

We all know too well the statistics regarding Native American housing. The homeownership rate on reservations is 41 percent, well below the national average of 68 percent. Native Americans have chronic housing problems -- overcrowding, substandard conditions, inadequate infrastructure and a lack of affordable financing. According to the National American Indian Housing Council, nearly 33 percent of homes on tribal lands—more than six times the national average—are overcrowded, less than half of the homes in Indian Country are connected to public sewer systems, and 16 percent of these homes lack complete indoor plumbing. Almost half of Indian households pay more than 30 percent of their income for housing expenses, compared to 23 percent of all households in the U.S.

As you well know, the absence of many conventional mortgage lending options is a major factor behind these problems. Many American Indians live on restricted land that is owned by the federal government and held in trust for their tribe. Historically, tribes did not have adequate foreclosure laws in place. Consequently, primary lenders did not offer conventional mortgages on trust land because they could not sell the loans in the secondary market.

As a result, American Indians interested in purchasing homes on tribal land had few alternatives. They could borrow through federal mortgage programs that made only a limited number of loans per year, or they could turn to high-cost or predatory lenders.

And the greatest 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. Here 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.[1]

However, thanks to the work of several dedicated housing partners, American Indians on trust lands are now entering a new era in which they can obtain traditional mortgages to build or purchase their own homes.

Overcoming Barriers

I would like to share with you some of the barriers Fannie Mae has experienced while working on tribal housing issues, as well as what we are doing to try and meet these challenges.

In light of these severe socio-economic conditions, Fannie Mae is taking a three pronged approach to expanding affordable housing on Tribal Lands:

First, we are developing the right mortgage products that make it easier for our lender partners to do business on tribal lands;

Second, we are working with developers and tribal housing authorities to address the critical shortage of affordable housing units that currently exists; and

Finally, we are developing broad partnerships throughout the housing finance and tribal communities to focus on the long-term systemic barriers to housing and community development that exist in Indian Country today.

1. New Mortgage Products

Fannie Mae is working with lenders to tailor lending products to meet the needs of tribal members. 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.

[1] *According to 2000 Census of Population and Housing.*

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 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. Since 2001, Fannie Mae has helped our lender partners serve over 8,535 Native American families by providing more than $839 million in affordable mortgage financing on Tribal Lands.

2. Expanding the Supply of Affordable Housing:

The Navajo Housing Authority (NHA) estimates that it needs 21,000 new housing units to satisfy the unmet needs of all Navajo families – including 12,000 new homes for purchase. As is the case with many of our larger Native American Reservations, many of the Navajo families live with extended families in overcrowded conditions, and a majority of families are unable to qualify for mortgage loans due to lack of credit, credit problems, or lack of savings to make down payments. Consequently, our focus needs to not only be on providing opportunities for affordable homeownership, but also on creating more opportunities for affordable rental housing.

Fannie Mae has worked closely with tribes and other housing partners to support both the construction of new units and rehabilitation of existing units 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. We have also begun to provide Tribal Housing Authorities with additional financing via our Community Lending business channel to help bridge funding gaps during the construction phase of their developments.

Today I would like to tell you about what Fannie Mae has done to put even more Indian Families into their own homes since I last testified before your Subcommittee in Tuba City. Because of the Mashantucket Pequot Land Assignment Law, we can now more effectively address the legal issues surrounding tribal sovereignty and tribal court

jurisdictions. Under the law the BIA can now approve an entire Assignment Area on Indian Reservations for home development. Working with developers and our lender partners, we can now produce affordable housing without the need for BIA approval of every mortgage.

Our work with the Mashantucket Pequot Tribe in Connecticut has produced a model for other tribes. An Assignment of tribal land give the tribal member the right to use, occupy, develop and exercise control over a parcel of land in perpetuity - unlike a land lease, which carries a 50-year maximum term. This Assignment can be mortgaged, and, again does not require BIA approval once an entire Assignment Area has been approved. This has resulted in 100 new homes in a subdivision the Tribe has recently completed.

Another excellent example of how the private sector can work with tribal governments to increase the supply of affordable housing can be found on the Standing Rock Reservation in North and South Dakota. Working together with Fannie Mae and Raymond James, the Standing Rock Housing Authority has effectively used tribal housing funds and the Low Income Housing Tax Credit program to build and rehabilitate 248 units of affordable rental housing in the past 5 years.

Nationwide, Fannie Mae has invested over $160 million in Low Income Housing Tax Credits, over $51 million in HUD Title VI loans, and $1.5 million in additional financing to support the construction and rehabilitation of units on Tribal Lands since 2001.

3. Legal and Regulatory Barriers

One of the single greatest obstacles to creating more affordable housing opportunities in Indian Country is the lack of a well developed formal property law and recordation system.

Legal issues such as tribal sovereignty and tribal court jurisdiction must be addressed before we will see increases in the flow of capital to tribal lands. This is not easy, since each tribe is sovereign and acts independently. Many lenders have concerns about the enforceability of contractual obligations and of the legal remedies available, and so find it difficult to provide capital in the face of such legal uncertainty.

Even for the willing lenders, the legal environment creates many additional hurdles. For example, there is a very limited market from which lenders can assess property values, and the restrictions against alienation further diminish market values. In addition, as you know, 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.

Fannie Mae has worked with HUD, USDA and Treasury to support tribes in creating standardized documents and model legal documents. Fannie Mae no longer requires tribes to make limited waivers of their sovereign immunity for mortgage lending transactions, and we also consent to tribal court jurisdiction. Additionally, we have approved the use of cost-based valuations for homes on tribal trust lands to help our lenders better determine market values.

Today in Albuquerque, New Mexico, we are meeting with tribal leaders, representatives from HUD, the Bureau of Indian Affairs, the National Congress of American Indians, the National American Indian Housing Council and other leaders from the non-profit, insurance and lender communities to begin developing a strategy to help more Native American Tribes address the regulatory barriers that frustrate title search and land recordation process for Tribal Lands.

Some tribes are already working to address this situation – with progress being made by the Saginaw Chippewa and Salish Kootenai Tribes in Michigan and Montana. Helping other tribes learn from these efforts will be a Fannie Mae priority in the years ahead.

Fannie Mae's Long Term Commitment to Native American Borrowers and Communities

Lastly, Mr. Chairman, I would like to mention our own efforts to institutionalize our commitment to Native American housing issues. In January of this year, Fannie Mae created a new business unit that focuses on addressing the toughest housing challenges in our distressed urban areas, rural communities, AND Tribal Lands. We are developing targeted, place-based strategies to create long-term solutions and to play a meaningful role in transforming these distressed areas into healthy and vibrant markets, where access to private capital is indistinguishable from other more established areas of the United States.

One of the best examples of this type of place-based strategy has been on the Blackfeet Reservation in Montana, where Fannie Mae's partnership with Tribal Housing leaders seeks not only to make additional housing investments in the short term, but also to develop long term, institutionalized affordable housing solutions.

One of the goals of our partnership with the Blackfeet has been to help their Tribal Housing Authority maximize the leveraging capacity of their existing allocation of federal housing funds. In 2001, for instance, the Blackfeet spent over $25,000 per unit of their tribal housing funds to construct their first Low Income Housing Tax Credit project. Last year, by leveraging additional financing from USDA, the Federal Home Loan Bank and Fannie Mae, they spent less than $5,000 per unit of their tribal housing funds on LIHTC projects. With the funding saved from leveraging outside resources, the tribe was able to use their remaining tribal housing funds to construct a Seniors Center for Tribal Elders and address other unmet housing and community development needs.

We believe we can learn from our experiences with tribes such as the Blackfeet to help create similar affordable housing solutions with other tribes throughout the country.

I want to thank Chairman Ney and Congressman Renzi, and the Members of the Committee 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. We look forward to working with the Committee to continue making progress.

Thank you and I would be happy to answer any questions.

Financial Services Committee

Housing and Community Opportunity Subcommittee

July 31, 2006

"Removing Barriers to Homeownership for Native Americans"

Statement of Ed Hellewell

On behalf of

The American Land Title Association

Chairman Ney, Congressman Renzi, and Members of the Subcommittee, thank you for inviting me to testify on behalf of the American Land Title Association, and to discuss "Removing Barriers to Homeownership for Native Americans."

My name is Ed Hellewell. I am a Senior Vice-President and Senior Underwriting Counsel for Stewart Title Guaranty Company and have 30 years experience in real estate and title insurance transactions. My involvement in Indian Country transactions began in 1995.

The American Land Title Association (ALTA), founded in 1907, is a national trade association representing more than 3,000 title insurance companies, title agents, independent abstracters, title searchers, and attorneys.

With more than 8,000 offices throughout the United States, ALTA Members provide services including title searches, examinations, and insurance protecting real property owners and mortgage lenders against losses from defects in titles. No other industry offers these services.

Additionally, many of these companies provide real estate information services including tax searches, flood certification, tax services, and credit reporting. ALTA member companies employ well over 100,000 individuals and operate in every county in the country.

The title insurance industry is currently helping to provide housing opportunities for Native Americans. But like others here today, while appreciating the progress made to date, we are hopeful improvements can be made to increase these opportunities. Today, title insurance availability supports the option of conventional mortgages for homes and homesite purchases in Indian Country by Native Americans. For example, Fannie Mae's Native American conventional loan initiative requires a title insurance policy. In addition, title insurance is required by some Department of Agriculture Rural Development (USDA) guaranteed loans. Further, title insurance is required by the Department of Housing and Urban Development (HUD) for the Section 184 guaranteed loan program encumbering assignment interests. In addition, ALTA member title and abstractor agents are occasionally asked to close loans, acting as escrow agents only, for government guaranteed loans.

But the common thread that generally runs through the process of government guaranteed loans and conventional market loans is the requirement for title information about the land and the interest in the land held by the borrower. That thread takes interested parties, except in the case of assignment interests, to the Land Titles and Records Office

(LTRO) of the Department of the Interior's Bureau of Indian Affairs (BIA) and the production of Title Status Reports (TSR).

Subsequent to the Subcommittee's July, 2005 hearing that included testimony about the production of TSR, we had the opportunity to discuss with representatives of HUD, USDA, and BIA possible solutions to these issues. As background, certified title status reports required a search and examination of the records beginning with the establishment of the Indian lands forward to the current date, and several certified TSRs might be requested during a transaction's process. Therefore, a possible solution was to utilize the practice followed outside of Indian Country. In such cases, subsequent to the original TSR, an examiner would begin the search with the last date title was checked and examine only the land records after that date. Ultimately, the September 29, 2005 Memorandum concerning an interim policy for Certified Title Reports was issued by BIA which adopted a form endorsement to a certified TSR in lieu of an additional certified TSR ("Endorsement To That Certified Title Status Report Dated ____ On Tract No.____"). As I understood the interim policy, it was intended to reduce the workload and backlog at the LTRO. It was thought that would result in quicker production of title information needed by lenders, federal agencies, and title insurers. The timely production of title information would increase homeownership options and opportunities for tribal members as well as increase the number of tribe members who would benefit. However, this interim policy and accompanying endorsement form did not appear to have been implemented uniformly.

The recently revised form "Endorsement to Certified Title Status Report" developed by HUD and BIA after additional discussion appears to improve the form and the process. We were pleased to contribute to this effort and anticipate assisting with educational efforts designed to understand and aid implementation of the revised endorsement form and interim policy.

There are success stories in Indian Country. One is taking place with the Saginaw Chippewa Indian Tribe of Michigan. The tribe has built a title plant to serve the tribe's land title needs with the ultimate goal of compacting with BIA for the LTRO functions. Hundreds of conventional loans have been made and insured to date.

Another successful development was completed by the Winnebago Tribe of Nebraska that resulted in a planned community subdivision utilizing a conventional loan and title insurance policies.

On another front, NeighborWorks America committed seed funding to support a Tribal Land Title and Recordation Office Study. The study is intended to examine solutions to the continuing impediment to mortgage financed homeownership on tribal trust land caused by the time it takes to receive title information. The study will be focused on providing tribes considering establishing their own Land Title and Recordation Office with useful information as well as recommendations on legislative issues and tribal ordinances. Members of the study include tribal representatives, private sector housing and mortgage industry representatives, a title insurer representative, national

intermediary/foundations and government representatives. The initial meeting was held June 28 & 29, 2006. A site study is planned and tentatively the final report would be available in 2007. The Confederated Salish & Kootenai Tribes of the Flathead Reservation in Montana currently operate the LTRO for their reservation and consider it a successful means of overcoming time difficulties.

Another option for tribes is the utilization of land assignments to tribal members for homesites being developed by HUD's Office of Native American Programs, the Mashantucket Pequot Tribe of Connecticut, and BIA. This involves the creation of an office to record the land assignments and the issuance of title insurance. Such a program with procedures similar to a county recorder's office should be acceptable to most title insurers.

As a suggestion for improving the title information production process, if private industry title examiners were allowed to examine titles as is done outside of Indian Country, then a manpower savings would result. Currently, the position of the BIA is, as I understand it, that as federal documents, the land title records are not available to the public as they are in the case of county or parish land records.

Another measure for improving the process and eliminating barriers is the proposed operating guidelines and standards that BIA has indicated will be completed after the proposed leasing regulations are completed. But, the key to having standards and guidelines is for actual implementation and application of those principles. Persons and entities doing business with the LTRO will be able to utilize such guidelines to process transactions with a minimum of friction and avoid many delays because of a lack of knowledge about particular forms or procedures.

I would note that our experiences with various LTRO and the production of title information have ranged from excellent to baffling. We have found that the priority processing for home ownership expressed in the February 23, 1999 BIA memorandum has resulted in varying levels of commitment and service. Most of the LTRO personnel are capable, competent, and courteous. Occasionally, resistance is encountered that appears based on a lack of understanding about the role of title insurance as a necessary ingredient in providing a real option for homeownership by a member of a tribe. Of course, most parties recognize that staffing and task assignments are not always within the control of the LTRO or the BIA Regions. One positive LTRO example occurred when a transaction needed to close by year end, the borrower and lender wanted to examine the documents noted on the TSR, and the Aberdeen LTRO produced the copies in one day. In another case, documents needed to be recorded with an LTRO, with the consent of the Realty Officer, were filed and returned the same day by the Albuquerque LTRO.

Last, I would note that, in many circles, home ownership is viewed as contributing to economic development. The existence of transferable long-term interests in land is believed to contribute to the creation of value and ultimately of wealth. This, in turn, appears to lead to economic development and sustainable economies which are a related

goal for Indian Country. The concept of how home ownership contributes to economic development appears to be a basic theme of Hernando De Soto's book – The Mystery of Capital – Why Capitalism Triumphs in the West and Fails Everywhere Else. Indian Country in some respects is similar to some of the former Soviet-bloc countries where international efforts, including by ALTA members, are underway to map and describe land, to create land title recordation systems, and to create private ownership interests in land.

In conclusion, the ALTA and its members are committed to assisting with efforts to remove barriers to homeownership for Native Americans. We will continue to work with interested Indian Country parties and government agencies to develop solutions and options that will create and increase homeownership opportunities for Native Americans. I would be pleased to answer any questions that Subcommittee Members may have.

Prepared Statement of Marty Shuravloff

Chairman - National American Indian Housing Council

Oversight Hearing of the Subcommittee on Housing and Community Opportunity

Committee on Financial Services - U.S. House of Representatives

Camp Verde, AZ

July 31, 2006

INTRODUCTION

Good morning Chairman Ney, Congressman Renzi and distinguished members of the Subcommittee. My name is Marty Shuravloff, and I am happy to be with you today as the recently-elected Chairman of the National American Indian Housing Council ("NAIHC"), the oldest and largest Indian housing organization in the nation representing the housing interests of more than 460 tribes. By way of background, I am an enrolled member of the Leisnoi Village in Alaska and serve as Executive Director of the Kodiak Island Housing Authority.

On behalf of the NAIHC, I want to first thank you Chairman Ney for the opportunity to be here and to discuss the obstacles to greater levels of homeownership in Native communities and, more importantly, ways we can work together to help Native families overcome those obstacles. I also want to thank you and Congressman Renzi for your many years of active support for Native people and their well-being.

Since 1974 the NAIHC has been the preeminent Indian housing and tribal capacity-building organization in the nation. The NAIHC provides technical guidance and assistance, training and other services to tribes and their tribally designated housing entities (TDHEs). Every year the NAIHC trains thousands of tribal housing staff, and most of this training is provided without charging a fee. We provide these services with a modest budget and a lot of dedicated staff who share your goals of providing safe, decent, and affordable housing for Indian people.

CHALLENGES TO HOMEOWNERSHIP IN INDIAN AMERICA

The NAIHC is appreciative of the Subcommittee's interest convening this hearing and focusing on homeownership in Native communities, a major priority for the NAIHC and our membership. There is good reason that the NAIHC dedicates many resources to promoting homeownership. As the Subcommittee knows, the rate of homeownership on Indian lands is just 33%, compared to 71% in the U.S. population in general.

A study conducted in 2000 by the First Nations Development Institute estimated that there were 38,000 qualified potential homebuyers on the reservation. While the study is now 6 years old, I am confident that the bulk of the 38,000 tribal members and the additional qualified potential homebuyers since that estimate was made have not succeeded in realizing the American Dream.

There are many contributors to weak tribal economies such as low rates of saving capital accumulation and investment, poor physical infrastructure, a lack of

entrepreneurship, issues of governance and transparency, and others. Frankly, some of these challenges can only be addressed by the Indian people themselves. However, one area where Congress can help is the area of homeownership. Increasing the rate of homeownership addresses several problems simultaneously: building a home employs people, uses raw materials, and requires water, sewage, and electricity and in this sense is a form of economic development. It also generates equity that the homeowner can use over the course of his or her lifetime. In this way it assists in capital accumulation, and makes business start-ups possible.

Tax Incentives for Reservation Development. Investment on Indian lands is not generating the kind of economic activity that will improve conditions there. Similarly, job creation is weak and unemployment levels are high for most tribal members. In 1993 Congress approved the *Omnibus Budget Reconciliation Act* which included both an Indian wage and health care credit (Internal Revenue Code section 45A) and an accelerated depreciation provision for property and physical infrastructure placed in service on Indian lands (Internal Revenue Code section 168(j)). These twin tax provisions seek to raise investment on Indian lands and encourage federal taxpayers to hire and retain Indian employees. The incentives expired on December 31, 2005, and there is every reason to seek their reauthorization on a multi-year basis.

Tribal Trust Lands. One of the biggest obstacles to homeownership on Indian lands is that tribal lands are held by the U.S. in trust for the tribes and are not available for use as collateral or to securitize a home loan. Some tribes are developing creative solutions to this problem such as the use of leases with terms of 99-years or longer. Another option is the use of "assignment law" which authorizes tribes to assign the land to a potential homebuyer. Under this model, trust land is divided into parcels by the tribe and assigned to tribal members, thus putting the tribe in control of the land title process.

Section 184 is Expanding - On Fee Lands. HUD's section 184 program is a success in Indian communities but unfortunately more of its loans are being made for homes on fee simple land outside the traditional reservation boundaries. This expansion is a good thing but is being encouraged, at least in part, by the difficulties and roadblocks experienced by private lenders and HUD in getting the timely delivery of necessary Title Status Reports ("TSRs") from the BIA. While a Memorandum of Understanding (MOU) was signed by the Bureau of Indian Affairs (BIA) jointly with HUD and USDA approximately 18 months ago, there has not been a measurable improvement in the BIA's performance.

Title Status Reports. The ongoing difficulty tribal member applicants, private lenders and tribes face in obtaining Title Status Reports ("TSRs") from the BIA for purposes of home financing is something the Subcommittee has been focused on for some time. Underscoring this point, the NAIHC recently conducted a survey of private lending institutions and determined that some lenders are forced to wait a year or more for a TSR to be processed by the BIA. Fundamentally, then, part of the homeownership challenge is in finding ways to expedite the processing of TSRs. It is clear that the BIA cannot - on a consistent basis and across the 13 BIA regions --- provide the kind of timely and effective responses to requests for TSRs that are vitally important to home financing and therefore to Native homeownership. This problem is structural and stymies the delivery of mortgage loan products to Indian lands, preventing homeownership from taking place where it is needed most.

Lenders Have Other Opportunities. I do not have to tell the Subcommittee that this kind of non-feasance by the BIA will not be tolerated by private lenders

who, frankly, can and do walk away from lending opportunities on Indian lands. In fact, we have just heard that a major national lender and another bank have both discontinued their 184 lending programs. Indian people should not have to tolerate it either and the NAIHC applauds the Subcommittee for its multi-year focus on the TSR problem. We are also heartened to know that Congressman Renzi and others are developing proposals to remedy the TSR problem in ways that tribes and their housing entities will undoubtedly support. For instance, if Congress were to authorize and encourage Indian tribes to contract to take over the TSR function from the BIA, I believe many tribes would take advantage of the opportunity.

As the Subcommittee knows, since the *Indian Self Determination and Education Assistance Act* was enacted in 1975, Indian tribes have contracted or compacted roughly one-half of programs and services of both the BIA and the Indian Health Service ("I.H.S"). To-date the Confederated Tribes of the Salish & Kootenai Tribes (Montana), the Confederated Tribes of the Colville Reservation (Washington State) and Saginaw Chippewa Tribe (Wisconsin) have taken over these TSR functions from the BIA. *See* 25 U.S.C. 450 *et seq.*

Another option was put forth by one of the private banks serving Indian communities: it suggested the BIA return to its previous practice of offering "informational TSRs" which, while not certified, would allow lenders to move ahead with processing the mortgage without undue delay. This procedure has been adopted and is now accepted for loans made under section 184

Housing Insurance. Another challenge facing many rural tribal members living in Indian areas is the lack of adequate insurance that must be purchased in order to qualify for a home mortgage. For years, housing insurance in Native communities has been provided largely by AMERIND, a Federally-chartered, not-for-profit entity that provides residential and other forms of insurance only to tribal members and only in Indian country, as defined by 18 U.S.C. §1151. AMERIND is currently authorized to provide such insurance to tribal members on trust lands in Indian areas pursuant to the *Native American Housing Assistance and Self Determination Act*, 25 U.S.C. §4101, et seq. Increasingly, NAHASDA block grant funds and home loan guarantees made under Section 184 of the *Housing and Community Development Act of 1992* are being used to finance homes <u>in</u> Indian service areas but <u>outside</u> of Indian country. With few if any private insurance providers willing to insure Indian homes, and AMERIND blocked from doing so, hundreds of Indian families are being prevented from acquiring mortgage loans. This challenge is easily fixed and NAIHC pledges to work with this Subcommittee on creative ways to overcome the insurance problem.

Perhaps the greatest structural problem dampening the Native homeownership rate is the weak performance of most tribal economies. We all know --- and unfortunately have to struggle against --- the caricature of "rich gaming tribes" and the sad fact is that in 2006, poverty is still all too common in Indian country. Of the estimated 4 million American Indians, Alaska Natives, and Native Hawaiians in the U.S., the clear majority live in conditions that would repel most of their fellow Americans: dilapidated and crowded housing, poor sanitation, few educational opportunities, and health statistics that look more like sub-Saharan Africa than the most affluent nation on earth.

NAIHC PROMOTES NATIVE HOMEOWNERSHIP

We share the vision of you Mr. Chairman and Congressman Renzi of increasing levels of homeownership in Native America for a number of reasons. Owning one's own home is not only an end in itself, but a means to achieving so many other

dreams in our great nation. Home equity often provides the means for creative and hard-working entrepreneurs to start their own business. Home equity also enables countless millions of Americans to send their kids to college, get an education and good-paying jobs.

A major focus of NAIHC training and technical assistance is in helping tribes promote homeownership among their members --- especially those living on-reservation. The NAIHC's nationally-recognized homebuyer education program, called "Pathways Home," trains hundreds of tribal staff each year who, in turn, are equipped to counsel first-time homebuyers on the home-buying process in tribal communities. Since 1998, the NAIHC has also provided counseling and guidance on the often-complicated and sometimes intimidating home mortgage process.

More recently, the NAIHC has expanded its Homeownership training offerings to include a new course: "Planning for Homeownership Projects," which has been offered twice and there are plans to incorporate it as a part of our ongoing training curriculum.

Homeownership rates in Native communities are also hampered by generally poor economies and low savings rates among tribal members. The NAIHC has expanded its homebuyer training to assist tribal members form Individual Development Accounts ("IDAs")as one way to save their scarce dollars for the down-payment on a home or closing costs associated with home financing. This October, the NAIHC will hold its first full conference in Denver, CO on the mechanics of IDAs.

Also since 1998, the NAIHC has worked with private lending institutions to break down structural barriers to homeownership through our "Mortgage Partnership Committee." This committee has worked with the BIA to break down the barriers to effective and timely mortgage lending. The committee has also focused on anti-predatory lending, and training as well.

On this score and finally, Mr. Chairman, I am very happy to tell you that within the next month the NAIHC will launch an exciting new initiative --- a website designed for Native people seeking more information and technical guidance on the home-buying and homeownership process. The name of the website will be www.nativeamericanhomebuyer.com and I encourage you and the Subcommittee staff to visit the website and give us your feedback and guidance.

CONCLUSION

There are many ways the NAIHC, Congress, and the tribes can work together to dramatically increase Native homeownership in the years to come. I have mentioned but a few initiatives - some structural, some related to funding --- that can be undertaken to achieve this goal.

I want to assure the Subcommittee and you Mr. Chairman that the NAIHC remains dedicated to making homeownership the rule and not the exception in Native communities and pledge our commitment to work with you to help Native people realize the American Dream.

I thank you for the opportunity to be with you today and would be happy to answer any questions you might have.

Timothy L. Simons
Assistant Vice President

Federal Home Loan Bank of San Francisco
on
Removing Barriers to Homeownership for Native Americans
before the
Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

Camp Verde, Arizona

July 31, 2006

Good morning. My name is Tim Simons and I am an Assistant 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.

Since the Subcommittee's hearing in Tuba City two years ago, progress has been made in providing more resources for decent, safe and affordable housing on Native American lands. It should be noted that federal involvement has been enhanced by the enactment this past December 22 of the Native American Housing Enhancement Act of 2005, sponsored in the House by Mr. Renzi. This Act provides tribes with greater access to new funds under the Native American Housing Assistance and Self Determination Act of 1996, and more flexibility when developing housing improvement projects. Another federal action was a HUD award in late April of $84.5 million in the form of a federal grant from the Indian Housing Block Grant program to the Navajo Housing Authority. This award expanded the availability of housing funds for the Navajo Nation through the use of a formula based on census data that more accurately recognized tribal populations. As Mr. Renzi said at that time, without the formula changes, the Navajo Nation stood to lose millions in Native American federal housing grants in the Administration's budget. These and other public and private efforts must continue in order to provide housing and vibrant communities for Native Americans.

For its part, the Federal Home Loan Bank System plays a key role in providing funds for housing finance throughout the U.S. Since Congress established the Federal Home Loan Bank System in 1932, the 12 regional, cooperatively-owned 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 do not meet the underwriting criteria of the secondary market. As deposits

have flowed to mutual funds and other investment vehicles in the past several years, advances have served as a vital funding source for community institutions. Our Bank serves large and small commercial banks, savings institutions, and credit unions in California, Nevada and Arizona that use the Bank as a source of liquidity and funding for housing loans.

System-wide, advances to member institutions collateralized by home mortgage loans amounted to over $600 billion as of December 31, 2005. Of that, the San Francisco Bank's advances amounted to about $150 billion. There are over 30 member institutions operating in the State of Arizona that use their advances to provide housing credit to borrowers throughout the State.

As we mentioned at the 2004 hearing, 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 member 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 approximately $2.1 billion in AHP subsidies, helping to create more than 430,000 housing units for low-income families. In 2005, the Federal Home Loan Banks contributed $280 million to this program. The AHP program continues to be 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 an appropriate manner. AHP funding is provided through a partnership between our member institutions and a community organization. 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.

Since 1990, the San Francisco Bank has provided $382 million in AHP assistance to member sponsored-projects which provide rental and homeownership opportunities for nearly 70,000 households. Through the AHP, a cross-section of lenders, developers, community-based organizations and local housing agencies work to create affordable housing. In 2005, the San Francisco Bank provided $42 million in AHP funds through its members. These funds were awarded to 102 projects submitted by member institutions as part of a competitive review process conducted by the Bank. These winning projects will help generate 6,000 affordable housing units, including about 1,000 homeownership opportunities.

The San Francisco Bank recently announced $23.4 million in AHP grants in the first round of the 2006 competition. The AHP grants will support 60 projects and generate 3,679 affordable housing units, including Arizona projects in Glendale, Lake Havasu, Phoenix, San Luis, Show Low, Somerton, Surprise, and Tucson.

Two other noteworthy projects are in Kaibeto and in Page, Arizona. The Kaibeto project member sponsor is Washington Mutual Bank (WAMU) and the community sponsor is the Bee

Hoogan Shelter Foundation. The Foundation, a tribally incorporated nonprofit, will build twenty, 3, 4 and 5 bedroom homes for very low- and low-income first-time homebuyers in a remote area in the Kaibeto Chapter of Navajo Nation. Currently there is a waiting list of over 30 families for this project. These homes will range in size from 1,100 to 1,500 sq. ft., including porches. The AHP funding of $280,000 will be utilized to pay closing costs and for downpayment assistance. The project financing is a unique and innovative blend of subsidy from the San Francisco Bank's AHP funds, Section 184 mortgages from Washington Mutual Bank and forgivable grants made available through the Native American Housing Assistance and Self Determination Act (NAHASDA). This project has an expected completion date of June 2007.

The member sponsor of the Page project was Norwest Bank and the community sponsor was the Navajo Partnership for Housing. The Navajo Partnership for Housing constructed 8 homes for Native American first-time homebuyers. The project site is in various locations in the City of Page. The AHP subsidy from the San Francisco Home Loan Bank will be used for down payment and closing assistance. Norwest Bank, as well as loan guarantees and insurance programs will provide the bulk of funding that will expand homeownership opportunities for Navajo families. Traditionally Navajo families with working incomes have had to live off the reservation, purchase a mobile home, or live in the scarce housing provided by the Navajo Housing Authority. As homeownership has seldom been an option for Navajo families, specialized homebuyer education and counseling was mandatory for pre- and post-purchase.

The San Francisco Bank is also focusing it efforts on supporting the National American Indian Housing Council (NAIHC), which is "the only national organization representing housing interests of tribes and tribal housing entities across the United States." The Bank has demonstrated support by providing sponsorships and targeted training at the Council's national conferences, describing how the FHLB System can assist in creating affordable housing on tribal lands.

While the San Francisco Bank has experienced issues in the past with funding projects on Native American lands, primarily because of the unique legal status of Tribes and their lands, a few years ago the Bank's federal regulator, the Federal Housing Finance Board, clarified that mechanisms other than a lien on the property could be used to secure the AHP repayment obligation. Of course, we recognize that there are issues regarding title and related matters under the control of other agencies that may affect private lenders.

The ability of Federal Home Loan Banks to provide AHP funds, dependent on Home Loan Bank earnings, may be adversely affected by a Finance Board retained earnings rule proposal that may decrease Home Loan Bank earnings and, therefore, funds available for AHP. The proposal would require each Home Loan Bank to hold a certain fixed amount of retained earnings and to reduce their dividends to member institutions until they achieve the fixed amount. One effect could be to make Home Loan Bank membership less attractive and thereby reduce the buisiness and earnings of Home Loan Banks. The impact on housing credit of decreased Home Loan Bank usage and earnings would be adverse, as fewer advnaces are made and fewer funds are available for AHP. The Finance Board has received over 1,000 comments,

including critical comments from Federal Home Loan Banks, member institutions, housing groups and Congressmen Oxley and Frank. Most all of the 1,000 comments object to the proposal. The San Francisco Bank will continue to seek changes to the proposal to ensure it does not inadvertently harm the Bank's core buisness and AHP progam.

The San Francisco Bank continues to work with trade groups and other organizations to find creative approaches to address lenders needs and the rights of tribe on their lands. The San Francisco Bank looks forward to continuing participation in efforts to address the issue of Native American housing.

I appreciate the opportunity to participate in this hearing on behalf of the San Francisco Bank.

Thank you.

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