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THE EFFECTIVENESS OF FEDERAL SPENDING ON NATIVE AMERICAN PROGRAMS AND THE PRESIDENT'S FY 2012 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS AND THE OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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OVERSIGHT HEARING ON "THE EFFECTIVENESS OF FEDERAL SPENDING ON NATIVE AMERICAN PROGRAMS, AND ON THE PRESIDENT'S FY 2012 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS AND THE OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS."

Tuesday,, March 8, 2011
U.S. House of Representatives
Subcommittee on Indian and Alaska Native Affairs
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 11:00 a.m. in Room 1334, Longworth House Office Building, The Honorable Don Young [Chairman of the Subcommittee] presiding.

Present: Representatives Young, McClintock, Denham, Gosar, Labrador, Kildee, Pallone, Boren, Luján, and Hanabusa.

Mr. YOUNG. The Committee will come to order.

The Chairman notes the presence of a quorum. The Subcommittee on Indian and Alaska Native Affairs is meeting today to hear testimony on the effectiveness of Federal spending on Native American programs, and on the President's Fiscal Year 2012 request for the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians.

Under Committee Rule 4[f], opening statements are limited to the Chairman and Ranking Member of the Subcommittee, so we can hear from my witnesses more quickly. However, I ask unanimous consent to include other Members' opening statements in the hearing record if submitted to the clerk by the end of business today. Hearing no objection, so ordered.

Also, I don't see him here, but later on I ask unanimous consent that the gentleman from New Jersey, Mr. Pallone, may be allowed to join us on the dais. Without objection, so ordered.

STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. Today, the newly established Subcommittee on Indian and Alaska Native Affairs meets at its first hearing of the 112th Congress. The purpose of today's hearing is to review the

President's Fiscal Year 2012 budget request for Native American programs administered by the Bureau of Indian Affairs, and by the Office of the Special Trustee for American Indians.

In this hearing, the Subcommittee intends to review the effectiveness of Federal spending on programs concerning recognizing Indian tribes. Today the government borrows money at the same time that it imposes obstacles for creation of new wealth, such as through the administration of the oil and gas leases on the Outer Continental Shelf. As a result, jobs are destroyed and the power of the dollar gets weaker and weaker.

Indian tribes and individual Indians own about 56 million acres of land held in trust. In my State of Alaska, another 44 million acres of land is owned by the Alaska Native Corporations. That is a total of 100 million acres of land, the size of California. Together these lands contain abundant resources of conventional renewable energy and hard rock minerals and aggregates, and timber, farming, grazing, fish and wildlife resources.

So, through responsible development of these resources tribes and individual Indians are well positioned to provide good jobs to tribal members and revenue for the tribal governments. It can also restore the manufacturing base of America that has been lost to the recent radical expansion of government regulations. The problem is outdated Federal policies stand in the way of tribal development and their resources. Examples are abundant, but a recent one that comes to mind is when this government denied an Indian tribe with 50 percent unemployment from building a new power plant, all in the name of pleasing the special interests.

The one goal of the hearing today is to examine whether or not the budget requested by the President reflects the policy of Congress to promote genuine tribal self-determination, not the kind of self-determination defined by special interests. Another purpose of today's hearing is the question of budget priorities the President has as Congress faces the unavoidable task of reducing the government's massive deficit and debt.

As we attack the budget deficit, it is imperative for Congress to ensure to uphold Indian treaties and solemn promises made to tribes through acts of Congress. It also means ensuring money is spent wisely and effectively for these purposes, not waste it on things like excessive attorney fees and Indian claim settlements. In this effort, it is my intent to work on a bipartisan basis with my colleagues on the Committee, and to work with the Administration to ensure the government is properly consulting with Indian Country to ensure the budget choices made by the House work for the benefit of American Indians.

With that, I look forward to hearing from the witnesses today.

[The prepared statement of Chairman Young follows:]

Statement of The Honorable Don Young, Chairman, Subcommittee on Indian and Alaska Native Affairs

Today the newly established Subcommittee on Indian and Alaska Native Affairs meets in its first hearing of the 112th Congress. The purpose of today's hearing is to review the President's fiscal year 2012 budget request for Native American programs administered by the Bureau of Indian Affairs, and by the Office of the Special Trustee for American Indians. In this hearing, the Subcommittee intends to review the effectiveness of federal spending on programs concerning recognized Indian tribes.

Today, the government borrows money at the same time as it imposes obstacles to the creation of new wealth, such as through the Administration's inaction on oil and gas leasing in the Outer Continental Shelf. As a result, less jobs are created, and the power of the dollar gets weaker and weaker. Fewer places in America feel the effects of America's decline in the production of new wealth and in the strength of the dollar, than Indian Country.

Indian tribes and individual Indians own about 56 million acres of land held in trust. In my state of Alaska, another 44 million acres of land are owned in fee by Alaska Native Corporations.

Together these lands contain abundant resources in conventional and renewable energy, in hard rock minerals and aggregates, and in timber, farming, grazing, and fish and wildlife resources. Through responsible development of these resources, tribes and individual Indians are well-positioned to provide good jobs to tribal members and revenues to tribal governments. They can also help restore the manufacturing base of America that has been lost through the recent, radical expansion of government regulation.

The problem is that outdated federal policies stand in the way of tribal development of their resources. Examples are abundant, but a recent one that comes to mind was when this government denied an Indian tribe with 50 percent unemployment from building a new power plant—all in the name of pleasing special interests.

One goal of today's hearing is to examine whether or not the budget request of the President reflects the policy of Congress to promote genuine tribal self-determination, not the kind of self-determination as defined by special interests.

Another purpose of today's hearing is to question the budget priorities of the President as Congress faces the unavoidable task of reducing the government's massive deficit and debt.

As we attack the budget deficit, it is imperative for Congress to ensure it upholds its end in treaties and solemn promises made to tribes through Acts of Congress. It also means ensuring money is spent wisely and efficiently for these purposes—not wasted on things like excessive attorney fees in Indian Claims settlements.

In this effort, it is my intent to work on a bipartisan basis with my colleagues on the Committee, and to work with the Administration, to ensure the government is properly consulting with Indian Country to ensure the budget choices made by the House work for the benefit of Native Americans.

Mr. YOUNG. With that, I now recognize my good friend, Mr. Boren, the Ranking Member of this Subcommittee, to make a statement.

STATEMENT OF THE HONORABLE DAN BOREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. BOREN. Thank you, Chairman Young, for holding this hearing today and for your bipartisan communication on this issue and many others. I am very encouraged by your willingness to work with me and our entire staff of this Committee, and I look forward to working with you in the future.

I want to say a special word about the gentleman to my left, Dale Kildee, the champion for Indian Country. Thank you for again allowing me to be in this position, and I look forward to working with you as well, Mr. Kildee.

Finally, I would like to thank the Bureau of Indian Affairs, Bureau of Indian Education, and the Office of the Special Trustee for American Indians for taking part in the hearing to discuss the Fiscal Year 2012 budget and its effect on Indian Country. I am very pleased to be part of the newly formed Subcommittee. I think it is long overdue. I look forward to finally addressing some of the issues facing Native Americans that have been left unresolved.

There are very many important topics that I hope to uncover during the coming months but none of which can move forward until the budget is dissected. Looking at the Administration's proposed budget for 2012, I would like to second Chairman Young's

emphasis on tribal sovereignty and the importance of removing the Federal Government from their development. We need to build a budget that creates jobs and opportunities for tribal nations without creating more bureaucratic regulation. This budget should strengthen the programs that allow tribes to act in their own best interest. It must also balance responsibilities to ensure every promise we make we can and will keep. With this in mind, there is no doubt that sacrifices must be made so that we can get the nation's budget under control.

I am pleased to see many positive changes in the proposed budget that reflect both the need for cuts while maintaining the integrity of the much needed programs. As a strong believer in the self-determination of tribal entities, I am glad to see the budget allows for additional funding to provide newly recognized tribes with a start-up cost. With 17 Federally recognized tribes in my district, many of which are small, Oklahoma will benefit greatly from the additional funding for small and needy tribes.

On the other hand, this budget provides an example of ways to cut money with the least impact. For example, the budget cuts $450,000 by eliminating excess printing, and another $2.5 million was saved by adopting departmental IT deficiencies. These are the kind of cuts that need to be made. This is the wasteful spending that we all talk about, and these cuts are the way that we can keep programs in Indian Country strong while remaining fiscally responsible. Overall, this is a good start. We must, however, maintain focus upon sovereignty and economic development so that our Indian communities can continue to grow and to govern. I look forward to discussing with everyone here today how the President's budget can or may address these issues.

I yield back.

[The prepared statement of Mr. Boren follows:]

Statement of The Honorable Dan Boren, a Representative in Congress from the State of Oklahoma

Thank you Chairman Young for holding our hearing today and for your bipartisan communication on this issue and others. I am very excited about the representation we have on this committee and look forward to working with you.

I would also like to thank Dale Kildee for his continued leadership and efforts on the behalf of Native Americans. He is a real champion for Indian Country. I am proud to be a part of his team.

Finally, I'd like to thank the Bureau of Indian Affairs, Bureau of Indian Education, and the Office of the Special Trustee for American Indians for taking part in the hearing to discuss the Fiscal Year 2012 budget and its affect on Indian Country.

I'm very pleased to be a part of this newly-formed subcommittee. It is long overdue. I look forward to finally addressing some of the issues facing Native Americans that have been left unresolved.

There are many very important topics that I hope to uncover the coming months, but none of which can move forward until the budget is dissected.

Looking at the Administration's proposed budget for 2012, I would like to second Chairman Young's emphasis on tribal sovereignty and the importance of removing government from their development.

We need to build a budget that creates jobs and opportunities for our tribal neighbors without creating more bureaucratic regulation.

This budget should strengthen the programs that allow tribal nations to act in their own best interests.

It must also balance responsibilities to ensure every promise we make, we can and will keep.

With this in mind, there is no doubt that sacrifices must be made so that we can get the nation's budget under control.

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These are the kinds of cuts that need to be made. This is the wasteful spending we talk about. And these cuts are the way that we can keep programs in Indian Country strong while remaining fiscally responsible.

Overall, this is a good start. We must, however, maintain focus upon sovereignty and economic development so that our Indian communities can continue to grow and to govern.

I look forward to discussing with everyone here how the President's budget can or may not address these issues.

Mr. YOUNG. I thank the gentleman, and with that I will call the two witnesses, Larry Echo Hawk. Assistant Secretary for Indian Affairs, and Ray Joseph, the Principal Deputy Special Trustee for American Indians.

Welcome both of you. I am sure you have done this before but you will be limited to five minutes, but I will tell you that sometimes I am more lenient if you cannot finish your statement at that time do so. But answering questions you can, both of you, try to make them as concise as possible, and that goes for the questions, too, and smack me up alongside the head if I don't ask concise questions, too. You know how the timing lights work. You have five minutes, but again, I will be a little lenient, and again, welcome to the Committee, and I will start, I believe, with Mr. Echo Hawk.

And first let me say, Mr. Echo Hawk, I want to thank you for going to Alaska. I have spoken to you before about my interests in developing legislation that will be beneficial. We expect you, hopefully, will volunteer—this will not be an adversarial position—to try to improve the Bureau of Indian Affairs and how it serves its constituents. I know you have some suggestions. If you can't say them out loud, you can say them quietly on paper as I know how this system works. But my goal in this period of time, and I am sure Mr. Boren, the Ranking Member, and the other Members is to try to make sure that we can progress forward with Indian Country and Alaska Natives and make sure they have an opportunity to improve their lot.

So, again, thank you, and welcome aboard and you are up first.

STATEMENT OF THE HONORABLE LARRY ECHO HAWK, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. ECHO HAWK. Thank you, Mr. Chairman, and Ranking Member Boren, and Subcommittee Members. Thank you for the opportunity extended to me to provide the Department of the Interior statement on the President's 2012 budget request for Indian Affairs. As the Assistant Secretary for Indian Affairs, I oversee the Office of the Assistant Secretary and also the Bureau of Indian Affairs, and the Bureau of Indian Education.

With me today are Mike Black, the Director of the Bureau of Indian Affairs, and Keith Moore, the Director of the Bureau of Indian Education.

The President has requested $2.5 billion for Indian Affairs within the Department of the Interior. Through the work of the Tribal Interior Budget Council for Indian Affairs, this budget has been crafted after careful consultation with American Indian and Alaska Native government representatives. The President has called upon members of his administration to meet important objectives while also exercising fiscal responsibility. Consistent with that directive, difficult choices have been made in formulating the Fiscal Year 2012 request for Indian Affairs.

The Fiscal Year 2012 request is $118.9 million below the Fiscal Year 2010 enacted budget level. This is a reduction of 4.5 percent. The majority of the reductions are due to one-time program increases provided in prior appropriations, completion of projects and completion of payments to settlements. Still, Indian Affairs had to make tough decisions that reflect the President's commitment to fiscal responsibility. Nevertheless, this proposed budget has $89.6 million targeted increases for tribal programs, and I would like to highlight some of those targeted increases which are a part of the President's strengthening tribal nations initiative.

Under the category of advancing nation-to-nation relationships, there is a $42.3 million increase, which includes contract support cost of $25.5 million. I note that this is the top priority of the Tribal Interior Budget Council. That Council is made up of two tribal representatives from all 12 regions of the country.

Also included within this category is $4 million for the Indian Self-Determination Fund, and this is to assist tribes to contract and compact new programs. There is also a provision here for support of small and needy tribes at the level of $3 million, and this would help small tribes carry out basic services as tribal governments. This will affect 114 tribes, 86 of which are in the State of Alaska.

The second category is protecting Indian communities and we are requesting an increase of $20 million which includes $5.1 million for our tribal law enforcement operations, a total of $11.4 million for the operation and maintenance of detention centers and $2.5 million for tribal courts.

In the third category, improving trust land management, there is an increase requested of $18.4 million, which includes $2 million for renewable energy projects on tribal trust lands, and $1 million for conventional energy development. In trust natural resource management, there is a request for a $7.7 million increase which covers a variety of things, including development of the former Bennett Freeze area on the Navajo reservation in Arizona, also implementation of off-reservation treaty rights for conservation and management, and also management of on-reservation fish and wildlife resources. It also includes, as an example, $1 million for forestry programs on approximately 292 reservation areas.

And in the fourth category, improving Indian education, there is an increase requested of $8.9 million. This includes an initiative on safe and secure schools of $3.9 million which will implement safety

and security programs at 10 schools to mitigate issues identified by the Inspector General last year.

There is also a request of $2 million to meet settlement terms with regard to an EPA—EPA violations found in 2008, and then $3 million for tribal support, grant support cost for—that is $3 million to fund administration and indirect costs for 124 controlled schools and residential facilities.

There are significant program decreases, and just highlight that in the operation of Indian programs there would be a decrease of $43.3 million, construction would be $65 million, and there are program eliminations of $7.9 million, program completions of $64.4 million, and administrative reductions of $22.1 million.

This budget will serve more than 1.7 million American Indians and Alaska natives, and I note that almost 90 percent of all appropriations are expended at the local level, 63 percent of appropriations are provided directly to tribes. There are great needs in Indian Country, but President Obama's administration has faithfully sought to meet those needs by following the priorities set by tribal leaders. We would be happy to respond to questions. Thank you, Mr. Chairman.

[The prepared statement of Mr. Echo Hawk follows:]

Statement of Larry Echo Hawk, Assistant Secretary—Indian Affairs, U.S. Department of the Interior

Good morning Chairman Young and Ranking Member Boren, and members of the Subcommittee on Indian and Alaska Native Affairs. Thank you for the opportunity to provide the Department of the Interior's (Department) statement on the fiscal year (FY) 2012 President's Budget request that was released on February 14, 2011 for Indian Affairs' programs. The FY 2012 budget request for Indian Affairs programs within the Department totals $2.5 billion in current appropriations. This reflects $118.9 million, a 4.5 percent decrease, from the FY 2010 enacted level. The budget includes a reduction of $50.0 million to eliminate the one-time forward funding provided in 2010 to Tribal Colleges and Universities; a reduction of $41.5 million for detention center new facility construction due to a similar program within the Department of Justice; and a reduction of $22.1 for administrative cost savings and management efficiencies.

Overall, the 2012 Indian Affairs budget reflects a fiscally responsible balance of the priorities expressed by the Tribes during consultation and broader objectives of the Administration, as well as demonstrated program performance, and realistic administrative limitations. The 2012 budget focuses on core responsibilities to American Indians and Alaska Natives through programs and services that are vital to Indian Country and that benefit the greatest number of Indian people on a nationwide basis. The budget focuses on priority areas in Indian Country and honors the Federal Government's obligations to tribal nations in a focused and consulted manner.

As the Assistant Secretary for Indian Affairs, I have the responsibility to oversee the numerous programs within the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), along with other programs within the immediate office of the Assistant Secretary for Indian Affairs. The Office of the Assistant Secretary for Indian Affairs, BIA, and BIE programs expend over 90 percent of appropriations at the local level. Of this amount, at least 62 percent of the appropriations are provided directly to tribes and tribal organizations through grants, contracts, and compacts for tribes to operate government programs and schools. Indian Affairs' programs serve the more than 1.7 million American Indian and Alaska Natives living on or near the reservation.

The Indian Affairs FY 2012 budget request provides funding for three of the Department's priority initiatives: Strengthening Tribal Nations, New Energy Frontier, and Cooperative Landscape Conservation.

Strengthening Tribal Nations

The Strengthening Tribal Nations initiative is a multi-faceted approach to enhance Nation-to-Nation relationships, improve Indian education, protect Indian com-

munities, and reform trust land management, with the ultimate goal of greater tribal self-determination. This initiative was highlighted over a year ago when President Obama and his Administration engaged in direct dialogue with Tribal Nations in November 2009 at the White House Tribal Nations Conference held at the Department's Yates Auditorium, with over 400 tribal leaders in attendance. The President held a second successful conference in December 2010 to continue dialogue and work with tribal nations.

Nation-to-Nation Relationship

The Administration, in believing that investing in Indian Country is the key to advancing our Nation-to-Nation relationship, seeks $42.3 million in programmatic increases for contract support, self determination contract specialists, and social workers. At the forefront of this investment is contract support, which was identified by many tribal nations as their top priority.

Funding contract support costs encourages tribal contracting and supports Indian self-determination. Contract support funds are used by Tribes that manage Federal programs to pay a wide range of administrative and management costs, including finance, personnel, maintenance, insurance, utilities, audits, communications, and vehicle costs.

The requested FY 2012 increases will also allow the BIA to fund Self-Determination Specialist positions to ensure proper contract oversight. In addition, it will allow the BIA to add more social workers to assist tribal communities in addressing problems associated with high unemployment and substance abuse. Through this assistance, and by addressing these problems, there will be positive indirect impacts on public safety and education in these tribal communities. We also plan for $3.0 million of this request for approximately 86 Alaska and 17 "lower-48" Small and Needy Tribes that both have populations below 1,700 and receive less than the recommended threshold for base funding. These funds will bring these Tribes to the minimum funding necessary to strengthen their tribal governments ($160,000 in the lower-48 and $190,000 in Alaska).

In addition, reflecting a top priority of President Obama, Secretary Salazar and I, the budget request includes language confirming the Department of the Interior's authority to acquire land in trust for all federally recognized tribes. Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Since 2009, the Department has acquired more than 34,000 acres of land in trust on behalf of Indian nations. Tribal homelands are essential to the health, safety and welfare of American Indians and Alaska Natives.

Protecting Indian Country

For the past several years, tribal nations have consistently identified public safety as one of their top priorities. The BIA supports 193 law enforcement programs throughout the nation; within the 193 programs, there are 6 district offices and 187 programs performing law enforcement services consisting of: 36 BIA-operated programs and 151 tribally-operated programs. Approximately 78 percent of the total BIA Office of Justice Services (OJS) programs are outsourced to tribes.

President Obama, Secretary Salazar and I have prioritized public safety based on feedback from the respective tribes. The FY 2012 budget request seeks an additional $20.0 million in public safety funding over the FY 2010 enacted level. Within the increase, $5.1 million is for tribal and bureau law enforcement operations and $10.4 million for tribal and bureau detention facilities operations. The funding will be used for staffing, training, implementation of the Tribal Law and Order Act, and equipment to increase staffing capacity for law enforcement and detention programs and ensure communities can support efforts to combat crime in Indian Country. The budget requests an additional $1.0 million, for a total of $13.8 million in funding for detention facilities operations and maintenance throughout Indian country.

The budget includes $2.5 million for tribal courts to support the enhanced capabilities given to tribal courts in the Tribal Law and Order Act. The increases to tribal courts and corrections will augment recent increases to the size of the tribal police forces over the last several years, which is part of a multistep plan to strengthen tribal justice systems.

The budget also includes $1.0 million for tribal Conservation Law Enforcement Officers. The CLEO's primary responsibility is the protection of tribal natural resources; however, officers are often cross-deputized with local law enforcement agencies providing CLEOs with the authorization to enforce criminal law.

Advancing Indian Education

The BIE is one of only two agencies in the Federal government that manages a school system, the other being the Department of Defense. Education is critical to ensuring a viable and prosperous future for tribal communities and American

Indians. It is this Department's goal to improve Indian education and provide quality educational opportunities for those students who attend the 183 BIE funded elementary and secondary schools and dormitories located on 64 reservations in 23 states and serving approximately 41,000 students.

The FY 2012 request maintains the President's, Secretary Salazar's, and my ongoing commitment to improve Indian education for students in bureau-funded schools and tribally controlled colleges. The budget provides an increase of $8.9 million to improve the state of BIE schools. We plan to use $3.9 million to promote safe and secure schools by implementing safety and security measures at 10 schools and 2 dormitories. This request also includes an increase of $2.0 million, which will provide funds for additional professionals to conduct environmental audits at BIE schools.

Another component of BIE funding is Tribal Grant Support Costs, which cover administrative and indirect costs at 126 tribally controlled schools and residential facilities. Tribes operating BIE-funded schools under contract or grant authorization use these funds to pay for the administrative overhead necessary to operate a school, meet legal requirements, and carry out other support functions that would otherwise be provided by the BIE school system. The budget increases funding for these activities by $3.0 million.

Improving Trust Land Management

In addition to the human services components of Indian Affairs, the United States holds 55 million surface acres of land and 57 million acres of subsurface mineral estates in trust for Tribes and individual Indians. Trust management is vital to tribal and individual economic development. The management of Indian natural resources is a primary economic driver in many regions within the country. For example, some of the larger forested tribes operate the only sawmills in their region and are major employers of not only their own people, but of the non-tribal members who live in or near their communities

This Administration seeks to continue advancing the Strengthening Tribal Nations initiative by assisting Tribes in the management, development and protection of Indian trust land, as well as natural resources on those lands. The FY 2012 budget request includes $18.4 million in programmatic increases for land and water management activities. Those activities include: $1.2 million for land development in the former Bennett Freeze area in Arizona on the Navajo Nation reservation and $1.0 million for the Forestry program.

The 2012 budget provides $2.0 million for the Rights Implementation program and the Tribal Management and Development program to support fishing, hunting, and gathering rights on and off reservations. The request provides $2.0 million for Fish, Wildlife, and Parks programs and projects to support fisheries management at BIA and tribal levels. The budget also provides an additional $500,000 for the Invasive Species/Noxious Weed Eradication program to provide weed control on 20,000 acres.

The budget proposes an additional $1.0 million for the Water Management and Pre-Development program to assist Tribes in the identification and quantification of water resources; $1.0 million for Water Rights/Litigation to defend and assert Indian water rights. The budget also provides an increase of $3.8 million to help BIA address dam safety deficiencies and ensure public safety near high hazard dams in Indian Country.

Additional increases for Improving Trust Land Management are included in the New Energy Frontier and the Cooperative Landscape Conservation initiatives.

New Energy Frontier Initiative

The Office of Indian Energy and Economic Development (IEED) works closely with Tribes to assist them with the exploration and development of tribal lands with active and potential energy resources. These lands have the potential for renewable and conventional energy resource development. The FY 2012 budget includes an increase of $3.5 million in Indian Affairs for conventional and renewable energy projects as part of the Department's New Energy Frontier initiative, which will allow Indian Affairs and Tribes to explore and develop 1.8 million acres of active and potential energy sources on tribal land. The IEED provides funding, guidance, and implementation of feasibility studies, market analyses, and oversight of leasehold agreements of oil, gas, coal, renewable and industrial mineral deposits located on Indian lands.

This increase includes $2.0 million in the Minerals and Mining program to provide grants directly to Tribes for projects to evaluate and develop renewable energy resources on tribal trust land, a vital first step before energy development can begin. The budget also contains a $1.0 million increase for conventional energy de-

velopment on the Fort Berthold Reservation. To further expedite energy development on the Fort Berthold Reservation, Indian Affairs, the Bureau of Land Management, Bureau of Ocean Energy Management, Regulation and Enforcement, and the Office of the Special Trustee for American Indians created a "virtual" one-stop shop. The IEED—Division of Energy and Mineral Development, at the one-stop shop, has been proactive in using technology and technical assistance to process permits on the Fort Berthold Reservation. In 2010, the number of wells went from zero wells at the start of 2010 to over 100 producing wells at the end of 2010. It is anticipated that in 2011 this number will double to over 200 producing wells on Indian trust lands. The budget includes a $500,000 increase to support staff onsite, as well as provide on-call access to the full range of the Department's operational and financial management services.

In addition, IEED supports economic growth in Indian Country and assists Indian Tribes in developing economic infrastructure, augmenting business knowledge, increasing jobs, businesses, capital investment, as well as developing energy and mineral resources on trust lands. IEED has initiated many programs, projects, technical conferences and training programs to address the lack of employment, and intends to continue these efforts.

Cooperative Landscape Conservation Initiative

Indian Affairs will co-lead the North Pacific Landscape Conservation Cooperative (LCC) with the U.S. Fish and Wildlife Service and support tribal outreach efforts of other LCCs, particularly those in the northwestern U.S. In the North Pacific Cooperative, Indian Affairs will seek tribal input and perspective from Tribes with traditional ecological knowledge; and both Indian Affairs staff and local tribal members will be involved to develop strategies to address adaptation.

Requested Decreases

The initiatives described above, and the related increases in the Administration's request, mark a continued step toward the advancement of the Federal government's relationship with tribal nations. These initiatives focus on those programs geared toward strengthening tribal nations and reflect the President's priorities to support economic development in Indian Country.

The President has also called upon members of his Administration to meet important objectives while also exercising fiscal responsibility. Consistent with that directive, we made several difficult choices in the FY 2012 appropriations request for Indian Affairs.

The 2012 request includes $43.3 million in program decreases for the Operation of Indian Programs account including administrative central office reductions of $14.2 million for streamlining and improving oversight operations and to correspond to other programmatic cuts within the 2012 request. The budget reduces Real Estate Projects by $10.9 million; the remaining funds will be used to focus program operations on cadastral surveys as a catalyst for economic development for Tribes. The budget reduces Land Records Improvement by $8.5 million; the remaining funds will maintain core operations for the Trust Asset and Accounting Management System. The budget reduces the Probate Backlog by $7.5 million as over 18,000 cases are expected to be completed.

The Indian Affairs 2012 budget includes $32.9 million for ongoing Indian land and water settlements, which includes a reduction of $14.5 million reflecting completion of the Pueblo of Isleta, Puget Sound Regional Shellfish, and Soboba Band of Luiseno Indians settlements. The budget includes $9.5 million for the sixth of seven required payments for the Nez Perce/Snake River Settlement. The Omnibus Public Land Management Act of 2009 authorized payments to Shoshone-Paiute Tribes of the Duck Valley Reservation; this budget includes $12.0 million for the third payment for that settlement. The Act also authorized settlement payments to the Navajo Nation; the budget includes $6.0 million for Navajo Nation Water Resources Development Trust Fund and $4.4 million for the San Juan Conjunctive Use Wells and San Juan River Navajo Irrigation Rehabilitation Project which are part of the Navajo-Gallup Settlement.

The Construction program contains program reductions of $65.0 million. Of this programmatic decrease, $41.5 million for Public Safety and Justice new facility construction has been reduced from the Construction budget. The budget is reduced by $8.9 for Education Replacement Facility Construction, $5.0 million for Public Safety and Justice Employee Housing; the Department has taken a strategic approach to not fund new construction in 2012. At the requested level, the Education Construction budget redirects funding from new construction activities to Facility Improvement and Repair to achieve greater flexibility in maintaining existing facilities and employee housing.

The budget includes a reduction of $9.0 million for the Navajo Indian Irrigation Project. Indian Affairs is evaluating continuing construction on the Navajo Indian Irrigation Project. Additionally, $57.3 million was transferred from Construction to the Operation of Indian Programs account so to better align and consolidate operations and maintenance funding.

The request takes into consideration the $285.0 million that was provided to Indian Affairs for school and detention center construction activities and $225.0 million provided to the Department of Justice for detention center construction in Indian Country under the American Recovery and Reinvestment Act (Recovery Act). With funding from the Recovery Act, Indian Affairs will complete a number of high priority projects.

Although there are decreases to the construction programs in the appropriations request, the appropriations request does contain the following construction items: $52.1 million for Education, $11.3 million for Public Safety and Justice, $33.0 million for Resource Management, and $8.5 million for Other Program Construction.

The budget provides $3.1 million for the Indian Guaranteed Loan program, a reduction of $5.1 million from the 2010 Enacted level. The program will undergo an evaluation, develop a comprehensive performance metric framework, and improve efforts to work with other Federal agencies that assist Tribes in loans.

The 2012 budget includes a reduction of $3.0 million for the Indian Land Consolidation Program. The Claims Resolution Act of 2010 included the *Cobell v. Salazar* settlement agreement. The agreement includes $1.9 billion for land consolidation within the Office of the Secretary. This new funding will utilized to consolidate fractionalized land interests to be more economically viable for Tribes.

Conclusion

We are aware of the current fiscal challenges our nation faces. This Administration understands the need to take fiscal responsibility, and also understands the need to strengthen tribal nations, foster responsible development of tribal energy resources, and improve the Nation-to-Nation relationship between tribal nations and the United States. It is our sincere belief that we have struck a balance in this FY 2012 budget request for Indian Affairs that achieves the President's objectives of fiscal discipline while at the same time meeting our obligations to tribal nations with which our Federal government has a Constitutionally-based government-to-government relationship.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am happy to answer any questions you may have.

Mr. YOUNG. Thank you, Mr. Echo Hawk. Mr. Joseph, you are up next.

STATEMENT OF THE HONORABLE RAY A. JOSEPH, PRINCIPAL DEPUTY SPECIAL TRUSTEE FOR AMERICAN INDIANS, OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS, U.S. DEPARTMENT OF THE INTERIOR

Mr. JOSEPH. Good morning, Chairman Young, Ranking Member Boren, and Members of the Subcommittee. My name is Ray Joseph. I am the Principal Deputy Special Trustee for American Indians. I have with me the Associate Principal Deputy Special Trustee for American Indians, Donna Erwin with me today.

I am pleased to be before the Subcommittee today to discuss Interior's Fiscal Year 2012 budget for the Office of the Special Trustee for American Indians. I have submitted my full statement to the Subcommittee, which I ask be made part of the hearing record.

Mr. YOUNG. Without objection.

Mr. JOSEPH. OST's Fiscal Year 2012 budget request is consistent with the President's goal to reduce the deficit but remain sufficient to meet our fiduciary responsibilities and to provide quality services to Indian beneficiaries. OST was initially tasked by Congress with department-wide oversight for the reform of Indian Trust management, and the implementation of new fiduciary accounting

systems. OST's oversight role expanded in 1996 to include operational responsibility for financial trust management, including the receipt, investment and disbursement of beneficiary funds. The Office of Appraisal Services, which appraises Indian Trust lands, was move to OST in 2002. The Office of Historical Trust Accounting was realigned in 2007, to report directly to the Special Trustee.

The President's Fiscal Year 2012 budget request for the Department of the Interior's Office of the Special Trustee for American Indians is $152.3 million. This is reflecting a $24.7 million decrease from the 2010 enacted 2011 resolution. OST's 2012 budget request reflects program reductions of $22.6 million, and $3.3 million in administrative savings from the 2010 enacted 2011 continuing resolution. The only proposed increase in funding is for fixed costs, which includes space, utilities, and other overhead expenses which is increased by $1.2 million.

I would like to highlight five areas in the 2012 budget request. The Office of Special Trustee requests a $31.2 million budget for the Office of Historical Trust Accounting. This is a reduction of $16 million from the Fiscal Year 2010 base level. The 2012 budget request reflects the enactment of a settlement for the *Cobell v. Salazar* lawsuit, and assumes the approval of the settlement in 2011. This settlement does not address pending tribal cases, a total of $27.2 million will be used to support and analyze tribal claims in coordination with the Department of Justice. There are currently 96 tribal cases pending involving 114 tribes. A total of $4 million will be used to resolve proper ownership of residual balances in special deposit accounts and to distribute the account balances to tribes, individual Indians, and non-trust entities.

The 2012 budget request also eliminates the Office of Engineering, which is a savings of $2.1 million. This office worked to consolidate prior fiduciary trust reform plans. The bulk of trust reform projects that this office impacted are currently in production, therefore this office's operations are now deemed to be a lower priority. This program will be eliminated through attrition and reassignment.

The budget also requests a $1.9 million reduction on the Office of Trust Records. In Fiscal Year 2009, the Office of Trust Records completed the indexing of trust records collected in previous fiscal years from BIA. In future years the Office of Trust Records will continue to use in-house staff rather than contractors to maintain and update the trust records database and as trust records are retired. OTR will be using less Federal personnel in the base contract level, and there should be a minimal impact on workload and performance.

The Fiscal Year 2012 budget request also request s reduction of $1 million in Data Quality and Integrity Program. This is a trust asset and account management system data clean-up project that validates or corrects critical data elements. The TAAMS leasing model, post conversion cleanup efforts are projected to be completed in Fiscal Year 2011, therefore in Fiscal Year 2012, DQ&I will have decreased workload.

In support of the President's commitment to fiscal discipline and spending restraint, OST is participating in an aggressive department-wide effort to curb non-essential administrative spending.

The staff of OST was able to design a more efficient operational management structure which accounts for $3.3 million in administrative savings in this budget request.

This 2012 budget request includes reductions that reflect that reflect the accountable government imitative to curb non-essential administrative spending in support of the President's commitment on fiscal discipline and spending restraint. The staff has also implemented an accounting process that ensures today's Indian Trust financial operations are transparent and efficient. Our beneficiaries can be assured OST will continue to manage their funds with proficiency and care.

Mr. Chairman, once again I would like to thank you for the opportunity to appear before you today, and I will be happy to answer any questions that you may have.

[The prepared statement of Mr. Joseph follows:]

Statement of Ray A. Joseph, Principal Deputy Special Trustee for American Indians, U.S. Department of the Interior

Good morning, Chairman Young, Ranking Member Boren and Members of the Subcommittee. My name is Ray Joseph, and I am the Principal Deputy Special Trustee for American Indians.

I am pleased to be before the Subcommittee today to discuss Interior's fiscal year (FY) 2012 budget for the Office of the Special Trustee for American Indians. I have submitted my full statement to the Subcommittee, which I ask be made part of the hearing record.

OST's FY 2012 budget request is consistent with the President's goal to reduce the deficit, but remains sufficient to meet our fiduciary responsibilities and provide quality services to Indian beneficiaries.

OST Purpose

OST was initially tasked by Congress with Department-wide oversight for the reform of Indian trust management and implementation of new fiduciary accounting systems. OST's oversight role expanded in 1996 to include operational responsibility for financial trust fund management, including receipt, investment and disbursement of beneficiary funds. The Office of Appraisal Services, which appraises Indian trust lands, was moved to OST in 2002. The Office of Historical Trust Accounting was realigned in 2007 to report directly to the Special Trustee.

FY 2012 Budget Request

The President's fiscal year 2012 budget request for the Department of the Interior's Office of the Special Trustee for American Indians (OST) is **$152.3 million**, reflecting a $24.7 million net decrease from the 2010 Enacted/2011 CR. OST's 2012 budget request reflects program reductions of $22.6 million and $3.3 million in administrative savings from the 2010 Enacted/2011 CR level. The only proposed increase is in funding for fixed costs—space, utilities, and other overhead expenses—which increased by $1.2 million.

I would like to highlight five areas in OST's FY 2012 budget:

OHTA

The OST request also includes $31.2 million for the Office of Historical Trust Accounting (OHTA), a reduction of $16.0 million from the FY 2010 base level. The 2012 budget reflects the enactment of a settlement for the *Cobell v. Salazar* lawsuit and assumes court approval of the settlement in 2011. The settlement does not address pending tribal cases. A total of $27.2 million will be used to support analysis of tribal claims in coordination with the U.S. Department of Justice. There are currently 96 tribal cases pending involving 114 Tribes. A total of $4.0 million will be used to resolve the proper ownership of residual balances in special deposit accounts and distribute account balances to Tribes, individual Indians, and non-trust entities.

Reengineering

OST's FY 2012 request eliminates the Office of Reengineering, a savings of $2.1 million. This office worked to consolidate prior fiduciary trust reform plans. The bulk of the trust reform projects that the Reengineering staff impacted are currently

in production—therefore this office's operations are now deemed a lower priority. The program will be eliminated through attrition and reassignment.

OTR

This budget also requests a reduction of $1.9 million for the Office of Trust Records. In FY 2009, OTR completed the indexing of trust records collected in previous fiscal years from BIA. In future years OTR will continue to use in-house staff, rather than contractors, to maintain and update the database as records are retired. OTR will be using less federal personnel than the base contract personnel and there should be minimal impact on workload and performance.

DQ&I

The FY 2012 budget requests a $1 million reduction in the Data Quality and Integrity (DQ&I) program. This is a Trust Asset and Accounting Management System (TAAMS) data cleanup project that validates or corrects Critical Data Elements. TAAMS Leasing Module post-conversion cleanup efforts are projected to be completed by FY 2011—therefore in FY 2012 DQ&I will have a decreased workload.

Administrative Cost Savings and Management Efficiencies

In support of the President's commitment to fiscal discipline and spending restraint, OST is participating in an aggressive Department-wide effort to curb non-essential administrative spending. The staff of OST should be commended for the efficient management of operations which accounts for $3.3 million in administrative savings in this budget request.

The 2012 budget request includes reductions that reflect the Accountable Government Initiative to curb non-essential administrative spending in support of the President's commitment on fiscal discipline and spending restraint. In accordance with this initiative, the OST budget includes $3.0 million in savings in 2012 against actual 2010 expenditures in the following activities: $267,111 for travel and transportation of persons, $25,270 for transportation of things, $20,940 for printing and reproduction, $2.5 million for advisory and assistance services, and $147,010 for supplies and materials. Actions to address the Accountable Government Initiative and reduce these expenses build upon management efficiency efforts proposed in 2011 totaling $332,000 in travel and relocation, information technology, and strategic sourcing and bureau-specific efficiencies totaling $2.6 million.

The staff has also implemented a dynamic accounting process that ensures today's Indian trust financial operations are transparent and efficient. Our beneficiaries can be assured OST will continue to manage their funds with proficiency and care.

Conclusion

Mr. Chairman, once again, I would like to thank you for the opportunity to appear before you today, and I will be happy to answer any questions you may have.

Mr. YOUNG. Thank you, Mr. Joseph. I appreciate that.

Mr. Boren.

Mr. BOREN. Thank you, Mr. Chairman. I have a couple questions here, some general questions first to Mr. Echo Hawk. Your budget documents claim that the budget request was developed in extensive consultation with Indian tribes. I think that is very important and I appreciate that, that consultation did take place, and that your budget request tells us what you propose to fund based on these consultations.

Can you tell us in your meetings and in your consultations with tribes something that was not included in the budget that maybe tribes proposed during these consultations that maybe you just decided, well, that may be a good idea but we can't put it in our budget document? What are some things that didn't actually make it, you know, the old cutting room floor analogy in a film? What are some things that didn't make it that some of the tribes proposed that may be something the Committee needs to look at?

Mr. ECHO HAWK. Thank you, Congressman Boren.

With regard to the consultation process, we meet about four times a year with the Tribal Interior Budget Council. That is pre-

viously been called the Tribal Budget Advisory Council. So you know, it has moved from that word "advisory" to just a joint Tribal Interior Council, and you know, they go through a process each year of establishing their priorities. In fact, we have a meeting next week to start working on the 2013 priorities.

So, not only do they establish those priorities that we try to work into the budget, but we also, when we got the OMB guidance about reducing spending levels, we included the Tribal Interior Budget Council in those discussions as well. We are just trying to think about anything in particular that didn't make it into the budget, and you know, I think it probably goes down just to the level of funding for the tribal priority allocations. These are the core programs of tribes, they would have requested higher levels of funding pretty much across the board.

Mr. BOREN. As a follow up to that let me ask you a question about one of the programs. We talk about economic development. The Chairman has said one of the key goals of this Subcommittee is for economic development in Indian Country. With this in mind, there is a budget cut for the Indian Loan Guarantee Program of $5.1 million. That is a budget reduction of about 60 percent. Is that something that you all talked about in these meetings? What is the reason for that cut? It may be a good reason. I just kind of want to scratch into that a little bit.

Mr. ECHO HAWK. Congressman Boren, as I said, you know, the tribes would have been requesting more dollars in some of these core programs that we were able to come up with in this request, and with regard to the Loan Guarantee Program, this has been something that tribal leaders support greatly We have utilized those funds in the past, we think effectively, but the budget realities that we are in right now requires some reductions, and this is one of the areas that was reduced.

We are going to be working to evaluate that program to see how we can connect with other loan guarantee programs in the Federal Government. I think there was also some concern that with money that was allocated through the American Recovery and Reinvestment Act we were not able to get that money out the door as rapidly as we had hoped. That, to some extent, had to do with not just decisions that were being made by tribal leaders or Indian Affairs and Interior, but it had to do with whether or not financial institutions were willing to back the loans that are leveraged through this program. But, you know, in the long term going back we think that this has been a very effective program; just not as much as tribal leaders had hoped that we would be able to fund it this year.

Mr. BOREN. Thank you for your response.

Mr. Chairman, it looks like we have run out of time over here, but got tons of questions or a lot of things that we could delve into.

Mr. YOUNG. We will have sounds rounds if you wish to do so. Mr. Denham.

Mr. DENHAM. Thank you, Mr. Chairman.

The first question I have it about priorities. You know, the purpose of the BIA is to help tribes facilitate self-sufficiency and develop their economies. Would you agree with that, that that is the main purpose of the BIA?

Mr. ECHO HAWK. Yes, Congressman.

Mr. DENHAM. Then why are we putting a higher priority on fish and wildlife over economic develop in this year's budget?

Mr. ECHO HAWK. Excuse me. Would you repeat that question?

Mr. DENHAM. Why are we putting a greater priority on fish and wildlife protections rather than on economic development? You have a 20 percent decrease in economic development, and yet we have higher funding levels for fish and wildlife protections. And specifically in California, well, let me stop there first.

Mr. ECHO HAWK. Congressman, the funding for the fish and wildlife programs, a lot of those increases are driven by off-reservation treaty rights. These have been court cases that have been brought in the Great Lakes area as well as the Northwest, in particular, and it established the right of tribal people to do this for subsistence and ceremonial purposes, but also very importantly for commercial enterprises. Many tribal people in those regions rely on off-reservation treaty fishing rights for their jobs and their economy.

So, in order to make those viable rights it is necessary to spend money for habitat conservation and taking care of the fish and wildlife, and also meeting its responsibilities for management and enforcement so that those economies can continue.

Mr. DENHAM. And shouldn't a sovereign entity do what is best for them on their lands rather than having our budget dictate to them? Again, specifically I am looking at the lawsuit in California.

Mr. ECHO HAWK. Could you mention what specific lawsuit you are talking about?

Mr. DENHAM. Dealing with energy production and—I will get back to you on what tribe specifically it is, but I know that they have already expressed their concern with government overreach and have already filed a lawsuit in this particular matter. I guess, specifically it is frustrating to me to see a shift in priorities. I am not specifically just looking at this one case, but specifically in the budget there is—you know, economic development seems to be one of the biggest areas that the tribes that I have talked to wants to focus on, yet that is where we are seeing a decrease.

And further in that on the administration side, we are talking cuts to the administration side while we are still seeing a backlog of permits.

Mr. ECHO HAWK. Congressman, just as a follow up, you know, I would assure you that there is very strong support for providing funding for the fish and wildlife activities, both off-reservation and on-reservation. I have already addressed the off-reservation importance. I have just a very brief comment about on-reservation.

In the big picture, tribes, you know, gave up substantial acreage of land in the United States, and as a part of that process the United States made commitments back to the tribes that the remaining lands would be their permanent homelands and the United States would assist them in making these prosperous homelands, and fish and wildlife resources within reservation boundaries are important for the economy and subsistence of native people. And so tribal leaders feel very strongly about those programs.

Mr. DENHAM. Thank you. I yield back.

Mr. YOUNG. Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman.

I would like to point out Michigan went through a struggle on the fishing rights and the Indians basically won on the basis of a treaty. There are a couple of treaties: Treaty of Detroit. I read those treaties myself. For example, the treaty always says that we promise education for the Indians in return for taking their land, and I introduced a bill 40-some years ago in the State Legislature that any Michigan Indian can go to a public college in Michigan and the state pays the tuition, and that is still the law, and I have known many a person who has gone to college because of that.

But it is really based upon the fact that the constitution says this constitution and the laws of the United States shall be made in pursuance thereof and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land, and that judges in every state shall be bound thereby anything in the constitutional laws of any state to the contrary notwithstanding. So, Michigan tried to stop the Indians, but they weren't able to stop them because of the treaty right which is protected here in the constitution.

Just as a little aside, I was talking to an 80-year-old Indian up in Bay Mills, and he said he was out fishing one time when this controversy was going on, and he said the DNR came out to arrest me, and I knew I had my rights. My grandfather and great grandfather had taught me that, he said, but I hid out in the reeds and the weeds so the DNR couldn't physically grab a hold of me, and he said but the mosquitos kept biting me, he said, but the only thing that gave me constellation is that I knew the mosquitos were also biting the DNR.

[Laughter.]

Mr. KILDEE. But you know, the constitution is extremely important and we are bound by those treaties and John Marshall has said these Indian treaties are as valid as treaties with France or Germany.

We read in Article I, Section 8, that the Congress shall have the power to regulate commerce with foreign nations and among the several states and with the Indian tribes. Puts all those on inequality. So we don't give France its sovereignty, we recognize it.

John Marshall made it very clear that the sovereignty of the Indian tribes is a retained sovereignty, and that retained sovereignty is protected by the constitution, not granted by the constitution. So I come to that because we mentioned the fishing here, and fishing is a very important right in Michigan, and the natives have done well under their fishing rights.

In your testimony you mention the importance of improving trust land management. A major issue now is the *Carcieri v. Salazar* decision of the U.S. Supreme Court. They don't base that upon anything in the constitution, they base it on a faulty interpretation of a 1934 statute. What is the Department doing to work with the Congress or try to modify or set aside that Carcieri decision?

Mr. ECHO HAWK. Congressman Kildee, first of all, with regard to the off-reservation treaty fishing rights, I had the opportunity this past summer to travel to Michigan to Bay Mills, and part of my time spent up there was to go out in the waters, I think it is near the Apostle Islands, and to experience and to see how the tribal fishermen are making a living off their treaty fishing rights. And

it is much more important than just subsistence. It is the way that they make their living, and it was nice to see that firsthand.

With regard to the Carcieri case, right after I became Assistant Secretary of Indian Affairs I held consultation with tribal people across the country attended, I think we had three or four sessions. I attended each of the sessions in different parts of the country. And the strong message that I received from tribal leaders is that Indian tribes should be treated alike. There should not be any second class citizens out there when it comes to having the Secretary of the Interior exercise authority to bring land into the trust, and they also said that this problem created by this Supreme Court decision should be fixed by the Congress. And so the Obama Administration has taken a position in support of a legislative fix. We did that in the last Congress, and within the President's budget for 2012 is a provision to support that fix in legislation.

Mr. KILDEE. And I thank you. I thank you for all your help and I thank you for the find way in which you are carrying out your responsibilities. Thank you.

Mr. YOUNG. The gentleman yields back? Mr. Gosar.

Dr. GOSAR. Mr. Chairman, I would like to submit an opening statement for the record.

Mr. YOUNG. Without objection.

[The prepared statement of Dr. Gosar follows:]

Statement of The Honorable Paul A. Gosar, a Representative in Congress from the State of Arizona

Chairman Young and Ranking Member Boren, thank you for holding this important hearing today. And to Assistant Secretary Echo Hawk and to Mr. Joseph, thank you for spending time with us this morning to delve into the important questions we face, as we navigate the President's Budget Request for next fiscal year.

Native tribes are sovereign nations, yet the United States Government has a special trust obligation to these tribes, given the treaties we entered into with each tribe many decades ago. The history of this trust has been complicated to say the least. In 1975, President Nixon signed into law the Indian Self Determination and Education Assistance Act, capping a hard fought effort by native tribes to win the right for maximum native participation in the government and education of the Native American people. And indeed, the 1975 law contained promising provisions to allow individual tribes to negotiate with the Bureau of Indian Affairs to administer their social service programs, and empower native parents to be involved in their children's education.

Native tribes have responded in kind, across the country clamoring for the flexibility to maintain their own infrastructure with BIA. But I can't help but remark that there is far more work, far more cooperation, and far more learning to do when it comes to empowering tribes to manage their own affairs.

Given that over one fifth of my constituents are Native Americans, I have undertaken an effort to meet with representatives from native tribes both in my district and around the Southwest. And the feedback from this diverse group of folks is strikingly similar: The BIA is widely resented for inefficiency, stonewalling, and micromanaging tribal affairs. As one who believes that local control is the key to effectiveness and responsiveness, I find this trend troubling.

Tribal leaders have expressed a strong desire for BIA to move more towards awarding block grant funding to the tribes, with as little strings attached as possible. This will enable tribes to use their federal monies with an eye towards efficiency and service to their people, not towards jumping through bureaucratic hoops and red tape. I look forward to hearing our witness's testimony today, and their thoughts on the progress of self determination and how BIA can partner with tribes on this endeavor.

In particular, I am anxious to hear more from the witnesses about a long term plan to address the Former Bennett Freeze Area. For 40 years, the U.S. Government prohibited the Navajo and Hopi tribes from developing any further infrastructure on disputed land, about 700,000 acres worth in the Black Mesa Region of Ari-

zona. This ban affected 8,000 members of the Navajo Nation across nine communities, and remains today the most depressed area by far on the Navajo Reservation.

A recent study commissioned by BIA found that 77% of the homes in the Bennett Freeze area are not suitable for residence, and that nearly 40% are without electricity. This isn't the result of anything but pure government inaction, at the expense of my constituents. I am distressed at the apparent lack of action on the part of the current government to address this blight on our society. While none of us present here today took part in the initial Bennett Freeze in 1966, the fact is staring us all in the face that it is our responsibility to redress these grievous and unfair wounds.

Again, thank you to the witnesses and I eagerly await your testimony.

Dr. GOSAR. Secretary Echo Hawk, there is a part of the Navajo Nation that is an open wound on the conscious of this country. I am referring to the former Bennett Freeze area. Almost 40 years of government neglect, government indifference and government incompetence, this area is a hollow shell almost unfit for human inhabitation, but people do live there, and they want to live there. These determined Navajo want to stake their future in this land that Washington, D.C. almost destroyed.

What has the BIA done since the Bennett Freeze was lifted last year to help the Navajo, and what is the BIA proposing?

Mr. ECHO HAWK. Congressman, first of all just as a side note, I am a member of the Pawnee Nation, the Pawnee people originally from Nebraska, relocated into Oklahoma, but I actually grew up in Farmington, New Mexico, which is right across the river, the San Juan River, from the largest reservation in the Nation that is Navajo, and I am familiar with the Navajo reservation because I spent about 17 years living in that area, and I am well aware of the controversy that the Hopi and the Navajo Nations had, you know, for several years, and it appears that most of that has been resolved today.

But we, unfortunately, had the Bennett Freeze which pretty much stopped development in a large portion of lands that area, and the administration does offer up in the budget, I think it is $1.2 million for development of the Bennett Freeze. That is in this 2012 budget proposal of the President, which is meant to do several things to improve range land management and agricultural land use.

We are going to be pushing for sustained effort because a lot of work needs to be done to make those lands productive for the people that are living there.

Dr. GOSAR. There just doesn't seem to be the urgency at the BIA to rebuild the FBFA. If a flood or a hurricane had destroyed this area, we would declare a national emergency and send help. Well, I am here to tell you this area is a disaster. It is a national disaster created by an act of the government instead of an act of God, but a natural disaster just the same.

Will you help persuade the President to declare this area a national emergency so we can expedite assistance?

Mr. ECHO HAWK. Congressman, I note your request and we will take that under consideration. We will be happy to work with you on that.

Dr. GOSAR. Thank you. And looking at that I have met with representatives of numerous native tribes both inside my district and out. They express a strong resentment at the BIA in micro man-

aging their issues, stonewalling and inefficiency. I am grounded in the principle that people at the local level know a lot more on how they have to appropriate need than does the bureaucrats in D.C.

The tribal representatives tell me they would prefer block grants that would allow them to prioritize their needs and set in motion the projects they deem important in the time and manner they choose. Since we are having to do more with less due to our financial crisis, what are your thoughts about block grants?

Mr. ECHO HAWK. Congressman, we would be interested in looking at alternatives like that. Block grants, that is not something that presently is done in full force within the realm of our responsibilities, but you know, I would like to note some interesting things that have occurred since the mid-1970s. Oftentimes people say that we are not paying attention to self-determination, but I am just looking at a chart here that goes back to 1973 when the Bureau of Indian Affairs had 18,285 employees, 18,285, and today that has dropped down to just a little over 8,000, so there has been a constant decline in the number of Federal employees, and what this really means is that the responsibilities have been transferred to tribes, and I note that today about one-half of all BIA programs are operated and administered and managed by tribes, one-half of all BIA programs. And when it comes to the Bureau of Education, it is two-thirds of all BIA BIE activities.

So, this chart and those figures indicate that we do pay attention to self-determination, and I note that the self-determination policy was initiated 40 years ago under the Nixon Administration where that was followed up in 1975 by the enactment of the Indian Self-Determination Act. So once that foundation was put in place you have seen a gradual development of recognizing greater authority and autonomy for tribal governments, and we will continue to pursue that course.

Dr. GOSAR. Thank you.

Mr. YOUNG. I thank the gentleman, and when we introduce the American Indian, Alaska Native Economic Empowerment Act, I hope to have some input from you.

Mr. Luján.

Mr. LUJÁN. Mr. Chairman, thank you very much, and along those lines, Mr. Chairman, I appreciate the questioning regarding the block grants. Mr. Secretary, one question that I have, and we can review this later as we look to see what can happen for infrastructure on tribal lands, in New Mexico I am proud to say that the state created a tribal infrastructure fund, recognizing the need to work closer with our tribes where there is the ability to leverage Federal funds as well as state funds and tribal funds, and I think this would be another area where we could seriously consider opportunities to be able to help establish something similar as was done within the Water Rights Act as well, so I would just offer that suggestion, Mr. Secretary.

BIA schools are a critical component of the education of Native American studies, and in New Mexico we have a significant number of children who rely on funding from the Department of the Interior to get their first years of education, and I have had many concerned tribal leaders, tribal members and teachers visit my office, visit with me back in New Mexico as well as when I am hon-

ored to visit their council or with their tribal leaders, that have expressed concerns of dire conditions of our BIA school.

Many times these schools don't meet normal inhabiting conditions and get condemned, leaving children with no place to go to school. In addition, my Native American constituents have brought to my attention that the process for obtaining support for funding for improvements for BIA schools is virtually impossible. Many times schools are approved to receive funding and it takes years, even decades to get the funds, meanwhile putting students and teachers out on the streets.

I notice that the 2012 budget request cuts funding for new construction. Appreciating that only 10 percent of our students maybe attend BIA schools, but those 10 percent are attending schools in crumbling conditions.

Mr. Secretary and Trustee Deputy Joseph, can you tell me what the BIA is doing to make certain BIA schools are maintained and constructed in a timely manner, and if there is a particular part in the process for maintaining BIA schools that the Department has identified as a problem so that it can be fixed, and what is your plan to address many other critical health and safety issues that remain in BIA schools today?

Mr. ECHO HAWK. Congressman Luján, I will make some comment and then perhaps I ought to invite, with your permission, our BIA director to make follow-up comments. But I believe the statistic is accurate, and I will check that, but in my mind going back to 2001, about 74 percent of all BIE schools were rated to be in poor condition. We have made progress over the years in lowering that figure. One of the principal means recently of addressing the condition of schools and replacing schools was the American Recovery and Reinvestment Act, which I think my recollection has infused about 286 million additional dollars which meant we were able to build some new schools and significantly repair schools that were in bad condition. So that has lowered that figure of you know how many are in poor condition.

But we still have a backlog in construction need of over $2 billion, and I note that in the President's budget for 2012 we actually have a cut in construction, so this is the kind of thing that keeps me awake at night knowing that we have that significant backlog and not being able to make progress with this particular budget, but we have made progress in recent years. We just have to have a more sustained effort.

Now, I would like to see if Keith Moore would like to make any additional comment.

Mr. MOORE. Thank you, Mr. Secretary, thank you, Congressman Luján. Keith Moore, Director of Bureau of Education.

I would add, you know, we obviously have the same concern that you do as the director of our school construction, maintenance work that we do. We made the decision really in the budget, we invested tens of millions as the Assistant Secretary alluded to in school construction the RL funding. So we took the dollars that we had there and increased our O&M, operation and maintenance budgets to be able to at least keep our school at the current level, knowing that we face a tough situation here in terms of the budget decisions and where we prioritize our line items.

So, we made the decision to beef up the O&M side of it to be able to maintain the new schools and the current improvements that we have done in the news schools and the current school. So, that was one of our steps that we took in terms of looking at the budget.

Second, through the FEMA system, the Facilities Management Information System we track all of our issues that we have in our schools that are critical in terms of safe and secure and maintenance issues, so we have that information. We could get that to you. That is what we pay attention to each year when we on a formula basis prioritize what we are going to put our dollars to make improvements in schools. So, we also have that information and that is where our dollars go in terms of addressing that issue.

Last, we have put in $3.9 million in Fiscal Year 2012 for school safety, so we want to improve in that area in terms of the issues that we are trying to work on with school safety. There was a hearing last year on the issues within our schools in terms of school safety, and we are trying to address those issues as well.

So, thank you for your question and the chance to respond.

Mr. YOUNG. Thank the gentleman.

Mr. LUJÁN. Thank you, Mr. Chairman.

Mr. YOUNG. Who do we have here? Mr. Labrador from Idaho. Idaho.

Mr. LABRADOR. Mr. Chairman, I have no questions. I just want to welcome the good gentleman from Idaho. It is always good to see him here.

Mr. YOUNG. Wait a minute. He said he was down in New Mexico and he said he was a Pawnee, and now he is in Idaho, in Oklahoma? I mean, a jack of all trades.

Mr. ECHO HAWK. Mr. Chairman, I was born in Wyoming so I have the West pretty much covered.

Mr. YOUNG. The lady from Hawaii.

Ms. HANABUSA. Thank you. Thank you, Mr. Chairman. Thank you, Mr. Secretary for being here.

Mr. Secretary, I am interested in that part of your testimony that talks about basically strengthening the nation-to-nation relationship, but in particular where you make the statement that investing in Indian Country, that you believe that is probably the most essential part of strengthening the nation-to-nation relationship.

So, can you explain to me what you mean when you say "investing in Indian Country" other than the acquisition of lands in trusts?

Mr. ECHO HAWK. That is a good question, Congressman, and you know, I emphasized in some of my comments already that we try very, very hard to consult with tribal nations and to listen very carefully. We have a formal mechanism to do that, the Tribal Interior Budget Council, and they are the ones that give us the direction about what we should be doing in terms of offering up requests for increases in the budget, and in this budget, you know, there are several decreases that have been made in order to meet the tribal priorities, so we listened very carefully, and we are listening to what the tribal leaders think are the ways that we ought to fashion the Indian Affairs budget in Interior to figure out their objections. Most of these things connect with economic development.

Ms. HANABUSA. You are requesting $42.3 million programmatic increases for contract support, self-determination, contract specialist and social workers, and that is all in the context of Indian Country. So how exactly contract support part of investing in Indian Country?

Mr. ECHO HAWK. This is the top priority of the Tribal Interior Budget Council because it strengthens the tribal capacity to manage Federal programs and gives them flexibility once these allocations are made to be able to manage the money that they receive for these core programs, and this $25.5 million request for increase will help to get that contract support up to about 90 percent. Tribal leaders, of course, would like that to be all the way up to 100 percent because, you know, they receive money for Federal programs, but they don't have—without contract support they don't have the administrative capability to really take care of those, and so they end up taking money from the actual programs in order to administer. So, one of these days we hope to be able to reach that 100 percent level, and this is the top priority of the tribal leaders that we consult with.

Ms. HANABUSA. The energy initiative that you touched upon, I guess that is the economic development portion of it in the Office of Indian Energy and Economic Development I guess is where it is going to be found. I am just curious, if you can give us a quick rundown of exactly what types of energy initiatives that is going on and whether or not these are exportable, salable types of ventures outside of Indian County.

Mr. ECHO HAWK. Well, the Office of Indian Energy and Economic Development, they work with tribes to—well, they listen to tribal leaders express their desire to develop their lands and resources, and provide professional and expert counsel to be able to connect them up, for instance, with other Federal programming, and we have some money available to help start some of those projects.

We would be happy to provide the Committee with a detailed explanation of the various activities of this program within the Office of the Assistant Secretary.

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

Mr. YOUNG. Thank you. We will have a second round for all the Members.

Mr. Echo Hawk, I don't really have a big argument with the budget. I do think some of the areas that concern me, like I think it was $2 million in answering an EPA violation deeply disturbs me because it is taking the money hand from one group and hand it to another group, take it away from you, it helps the Native groups, which brings me—one of my goals is to make sure that as other agencies are interfering with your operations or with the operations of the tribal lands, and projects cannot be completed, how do you respond to those agencies? What is your role?

Mr. ECHO HAWK. Mr. Chairman, you know, I oftentimes hear as I travel across Indian Country and that has been a lot of travel because I have been in 38 states in the last 21 months visiting with tribal leaders, that they want me to be their voice back here in Washington, D.C. in dealing with other departments and agencies of the Federal Government, and sometimes that is even within—

in fact a lot of times even within Interior because Indian Affairs, tribal nations sometimes have conflicts with other agencies and departments, so I am supposed to be their advocate and I try my best to do that.

Mr. YOUNG. What I am suggesting is in this legislation as a nation dealing with another nation I don't think we have the right to implement laws that don't benefit that nation. We don't do it to Canada, we don't do it to India, we don't do it to Japan, we don't do it to Russia, and I am thinking that maybe we ought to expedite or at least streamline the ability for a tribe to develop energy resources if they wish to do so instead of delaying it because your voice may be strong, but the other agencies they will thumb their nose at you, as they have a habit of doing.

So, as we work together I would like to work with you and see if there is some way that we can write legislation that will expedite that process instead of slowing it down and giving reason to lawsuits could occur because they can never get anything done on these lands, and I go back to the is concept the highest poverty level, the highest alcoholism, the highest drug use, the highest unemployment, the highest dental problems, the highest lack of education problems reside in our reservations.

Now, there has been some successes. Some of those successes like the Seneca Tribe in New York is because they are outside of the trust relationship, and I just think that we have to open this box up to make sure that we have an opportunity to give them the opportunity. My opening statement was that there are 100 million acres of land, bigger than the State of California, and yet we have those high records of what I call Third World poverty, and so I want you to put your thinking cap on and we will work on this together.

Which reminds me, unemployment rate in the reservations are what? Do you have any idea?

Mr. ECHO HAWK. Mr. Chairman, overall the unemployment rate as I recall for Indian tribes is in the neighbor of 60 percent, as high as 85 percent in some communities, so we are facing a very challenging situation. In the United States we are alarmed when we have unemployment near 9 percent, but it is not uncommon to see those unemployment rates higher than 80 percent in Indian Country.

Mr. YOUNG. If you were to take out the BIA jobs, the government jobs, the government supported job, it would probably be around 90 percent.

Mr. ECHO HAWK. Congressman, it may be that case.

Mr. YOUNG. Well, see, again, I want to emphasize that because we have not done a good job, and by the way, Mr. Echo Hawk, you are just the last horse in this parade. I have watched all the horses before for the last 40 years, so don't feel bad. You just have to walk through all that other stuff they left behind, you know, but be careful and try to miss it, but this is why I am so excited about trying to do something that will make them raise above all those terrible numbers I just recited so that you will be able to achieve, I think, a great step forward if we do this together.

There will be people that object to this, you and I know that, but there may be ways that we can work together to make sure the

agencies don't keep putting their foot on top of their heads, special interest don't put their foot on top of their head and they allow them to come up and do the things I think they are capable of doing.

I am going to start another round—sorry, he is late. His first question could be his deal, but Mr. Pallone, if you would like to go ahead. You are going to wait a minute, we are starting the second round?

Mr. PALLONE. I will do whatever you want.

Mr. YOUNG. Go ahead, you have to five minutes for the first round.

Mr. PALLONE. All right, thank you. Let me thank you, Chairman Young, and also our Ranking Member Boren for holding the hearing and allow me to ask a few questions, and I just wanted to say I am glad that we have this newly formed Subcommittee, and I think it is a place where you can have a lot of new innovative solutions to the challenges that face Indian Country, and I know that both of you are certainly long-time friends of Indian Country.

The first question is that I believe that strong and stable tribal governments that establish self-determination are fundamental to the success of Indian Country. However, a major obstacle has been placed in the way of improving the trust relationship with the Carcieri decision. And since, you know, we fixed it in the House but it did not pass the Senate. A major concern of mine is that states and localities in some cases have begun to extend the reach of the regulations and taxes to newly acquired non-trust Indian lands.

So, first, what actions are being taken to prevent states and localities from taxing sovereign tribes on these lands? And second, is there room in the budget request to provide assistance to tribes that are affected by the negative consequences that have resulted from Carcieri? Talking about tribes that purchase lands now own lands but because of Carcieri they are not in trust. We are hearing a lot of things are happening where the states and the towns are trying to tax them, regulate them. Is there anything to prevent that? Is there anything we can do to help out when those circumstances arise? I ask either of you, and I hope it hasn't been asked already; otherwise you can tell me that, too.

Mr. ECHO HAWK. Congressman, I have previously commented about the Carcieri decision and noted that the Obama Administration has stood up strong in support of the legislative fix.

Mr. PALLONE. Well, I know we all want to fix it and I appreciate that, but what I am asking you absent that I am being told by some tribes, and you know, we had NCAI, USET, NAGA, everybody has been in town in the last few weeks, and some of them have said to me that the states and the towns are not taxing those lands because they are not in trust, regulating those lands that is contrary to sovereign relationship because they think they can do it because they are not in trust.

I guess, is there anything we can do to prevent that or is there anything we can do to help out with the budget or something in those cases, or maybe you are not even aware that these things have arisen but I am hearing that they have?

Mr. ECHO HAWK. Congressman, actually when the USET organization met here just recently, I appeared in front of them and

spoke and answered questions, and they brought this issue up with me, and we committed to work with them to try to see what we could do on that issue, and I would be happy to meet with you and see what we can work on together.

Mr. PALLONE. If you could get back to me. I am not a member of the Subcommittee, so I have to ask through the Chairman. If you want to get back to me, I would appreciate it, but I know that is a concern.

Does Mr. Joseph want to respond to that?

Mr. JOSEPH. Thank you, Congressman Pallone. At this time I am not really up to speed on this matter. I have only been in place about two months, but I am more than happy to work with——

Mr. PALLONE. Well, then let me get back to the two of you with the permission of the Chair, Mr. Boren.

The second thing I wanted to ask is, I will as this of Assistant Secretary Hawk, and I think this did come up about the reduction in the budget for the Indian Guarantee Loan Program, the $5.1 million that has been suggested. I mean, this is one of the few avenues for financing a lot of tribal economic development activities which obviously are so important with the recession.

Are there any other loan guarantee or financing programs that exist that could improve upon or replace the guaranteed loan program and fill this gap? I mean, obviously, you know, I don't like to see that kind of reduction, but are there other types of economic development opportunities that can fill the void of this program? That would be my second question.

Mr. ECHO HAWK. Indian Country feels very strongly that this is a good program. It has been used very well in the last few years. There are some concerns that have been raised about whether or not it is duplicative with other resources within the Federal Government. There has been a cut in funding this year, but there is a resolve to try to evaluate this.

Mr. PALLONE. Well, what are the other things that could replace it or that could help them with economic development of a similar nature? You say it may be redundant, but what are the other things that are available?

Mr. ECHO HAWK. I believe there is the SBA, and also I think something in the Department of Agriculture that has money available for development.

Mr. PALLONE. Now, it seems to me that is—I mean, look, again, my time is up, but it seems to me that if you are talking about eliminating or significantly reducing it, you know, there is going to be a void, and either you should keep it or come up with something else that is specific to tribes.

Thank you, Mr. Chairman.

Mr. YOUNG. Thank you, Mr. Pallone. Mr. Boren.

Mr. BOREN. Thank you, Mr, Chairman. I am going to go back to Mr. Joseph since a lot of attention has been toward Secretary Echo Hawk.

Since the passage of Cobell, the Cobell settlement, it is clear that land probating and fractionated interest costs the U.S. Government far more money than the land is worth. It is just a real issue. What is being done to prevent fractionated interest from continuing to accrue such costs? That is the first question.

Is the small amount of funding available enough to make a dent in the number of fractionalized land interests, and what kind of oversight is put into place to ensure the problem is handled effectively?

This reminds me of an issue, this is a separate—we have in our district right now the Corps of Engineers is trying to transfer like 20 acres of land that they don't want to some economic development entity. Anyway, the land is only worth about $100,000, but it is going to cost a million dollars to transfer it. That makes us all look bad. That makes government look bad. And so what are you all doing again with this small amount of money? How is this all going to work out and would be happy to hear your response?

Mr. JOSEPH. Thank you, Congressman Boren. The Cobell case, it remains in active litigation at this time, and it is under the U.S. District Court of District of Columbia under Justice Hogan. Currently we are looking at evaluating certain issues dealing with fractionation internally but until the final settlement is approved we are just in that pattern. We are not allowed to proceed any further than that. We also need to consult before that as well.

So, at this time there isn't any plan related to Cobell. You asked several questions so I wanted to make sure I answered that piece first.

And then we also looked at buying it probate on an ongoing basis to deal with fractionation in the traditional sense in an ongoing every day basis, but there are two parts to your question, correct?

Mr. BOREN. That is correct. Let me go back then again. So let us say that everything gets worked out, there is a final settlement. Do you feel like you have enough resources to do this from your position?

Mr. JOSEPH. At this time we are still in very preliminary early stages on planning for this internally. I wouldn't be in a position to comment on that at this time. I wouldn't want to misrepresent any ideas or concepts because we haven't identified all the things that need to be addressed.

For example, when you are purchasing land it is appraisals, titles, survey, and ownership. There are a lot of different pieces that need to be addressed. So I think it is important that we look at it in a comprehensive manner and come back with a comprehensive plan.

Mr. BOREN. Well, this is going to be an ongoing issue that we are probably going to be dealing with in the Subcommittee, so if you could keep us informed, keep my office and the Chairman's staff informed that would be great.

In the interest of time let me go to one other question. Then I will turn it back to the Chairman. This is for Secretary Echo Hawk.

I have seen the budget. There are many increases in funding that provide for more personnel among many agencies. There is money to hire social workers, natural resource specialists, police officers and administrative acquisition staff, among others. What, if any, measures are taken to ensure that Native Americans are recipients of these new jobs?

Mr. ECHO HAWK. With the jobs that are created in these initiatives that have increased funding, these would be jobs that fall

under the auspices of Indian preference. So, you know, whatever jobs are out there if there are qualified Indians they will be hired.

Mr. BOREN. I mean, do you feel like at the Bureau that it is adequately addressed, that you have, you know, percentagewise, I mean, could you give us some facts and figures? I know you don't have it off the top of your head but maybe you could share with our staffs so that we could know. Again, this is my first time to really delve into some of these matters, and we do this in a lot of different agencies, but it would be great to have some of those numbers and to know what Indian Country, as I am sure it is represented, the numbers which tribes from across the Nation are represented in these portions of the budget.

Mr. ECHO HAWK. Congressman Boren, I would be happy to give you some detailed information that we may be able to come up with in response to your question. In the travels that I have done across the Indian Country since we have had some funding increases in—just recently I have actually been on site where I have heard from tribal leaders express appreciation for the jobs that have been created in their communities.

Mr. BOREN. Thank you, Mr. Chairman. I yield back.

Mr. YOUNG. Thank you. I am going to use discretion of the Chair. Mr. Joseph, I understand, or Mr. Echo Hawk, I understand the Department is informing tribal leaders that a court order prevents departmental officials from discussing the settlement and its elements, including the land consultation plan, until the judge approves the settlement.

What court order are you referring to? Anybody want to answer that?

Mr. ECHO HAWK. Congressman Young.

Mr. YOUNG. We have the lawyers now.

Mr. ECHO HAWK. Congressman Young, for myself, I am recused from the Cobell issues, so that is the primary reason I cannot respond, but perhaps someone——

Mr. YOUNG. Mr. Joseph can answer. I need to find out what Court we are—yes?

Mr. JOSEPH. Chairman Young, it is the no contact order.

Mr. YOUNG. It is a what?

Mr. JOSEPH. It is the no contact order.

Mr. YOUNG. See, you are going to be $1.8 billion eventually to consolidate these lands. You have to have a plan.

Mr. JOSEPH. I understand.

Mr. YOUNG. And I will tell you I will make sure before this goes any further I am going to see that plan because that is a lot of money. The leaders don't know what is going to happen. Nobody knows anything. You guys are running around in transparency with an iron suit on. I mean, why can't you guys answer that question?

All right, go ahead, Mr. Joseph. How long have you been the job, by the way?

Mr. JOSEPH. Two months, sir.

Mr. YOUNG. I am not going to pick on you so go right ahead.

Mr. JOSEPH. Thank you. Until the judge issues the settlement, there is a no contact order, and there is currently a period right now until April 20th where it is the opt-out period, so we aren't

contacting any of the class members for that reason. Plaintiffs are response for doing that at this time.

Mr. YOUNG. Well, is there a timeframe on this settlement as far as the judge?

Mr. JOSEPH. I believe the date is June 20th is the fairness hearing date.

Mr. YOUNG. Hearing date, but that won't be the settlement date.

Mr. JOSEPH. No, sir, I believe—well, let me check with the attorney just to be sure.

Chairman Young, after the June 20th date the judge at his discretion will be issuing his final order.

Mr. YOUNG. So it is up to him. What I am going to do is, you know, I want you gentlemen to keep us informed because I am not about to disburse $1.8 billion without a plan, and who is going to receive what, how it is going to be done because this is important. I believe there is about 4.1 million fractionated cases and 100,000 fraction tracts and this is something that we are going to have to be looking at. I hope the lawyers in this room are representative once that huge amount of money, $223 million, and still not settled, so that is another question were going down the line. When that gets done, they may be excited with me.

You are good? Jeff, have you got some questions?

Mr. DENHAM. Yes, I just wanted to follow up again. Certainly I have concerns with the fish and wildlife protections and the funding levels that those are at, but specifically I want to go back to the economic development portion of this. You have a 20 percent cut there.

Will all the cuts in the administrative budget slow down and further hinder tribes from acquiring the permits and approval they are required to sustain their communities? And do you have any timeline on the length of time it takes to get the majority of these different permits, whether they be housing permits or lease agreements?

Mr. BLACK. Good morning. Thank you, Congressman. I am Mike Black, Director of the BIA.

I would be happy to get back with you on the exact number and figures, about approximate times it takes for a lease, and that is going to vary, dependent upon the type of lease that we are dealing with or permit; whether it be a home site lease, an oil and gas permit, or agricultural or grazing permit type situation.

Mr. DENHAM. Thank you. I would like to see the different types of permits but also to see if they vary from state to state.

Mr. BLACK. That is right.

Mr. DENHAM. And then specifically on this cut itself do you have the procedures in place so that it does not get any worse that it already is today?

I think we all recognize that it is not good, but is it going to get worse with the 20 percent cut?

Mr. BLACK. I don't believe the cuts that are in that area really pertain or are particular to that area dealing with our leases and our agricultural programs for the most part, and I don't believe what is there will directly affect our ability to carry out those missions.

Mr. DENHAM. And are there steps in place to remove unnecessary burdens and bureaucratic blockages that currently cause slow downs in this area?

Mr. BLACK. We are currently undergoing a number of different initiatives to look at our processes, and also in our regulations with business leasing, that would hopefully expedite and streamline some of those processes.

Mr. DENHAM. Thank you. I would like to see some specifics on that.

And one issue that is of concern to me as somebody from California, we have a lot of duplication in the different regulations that you must go through, and we wonder if specifically in this area if the Administration would be willing to look at waiving NEPA when SEQA is involved. You have to go through the SEQA process which is obviously much more onerous than the NEPA process. Would NEPA be able to be waived in those cases? And you can get back to me on that one.

Mr. DENHAM. Thank you.

Mr. ECHO HAWK. Mr. Chairman and Congressman, just a brief comment on your question.

We presently are looking at a revision of the leasing regulations. It is Part 162, and it does touch on business leases, and the aim of this revision or amendment would be to streamline the process for purpose of advancing economic development and energy development, and consultations on the lease revisions are going to start next week, so tribal leaders all across the country will be able to give comment on the proposed changes which have already been sent to them.

Mr. DENHAM. Thank you.

Mr. YOUNG. Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman.

First of all, just looking around this Committee today I feel very encouraged. You know, we are all kind of new on this Committee. This is a slightly new Committee. We haven't had one for a long time. But I am encouraged when I see the makeup of the Committee. It is very, very good.

While Mr. McClintock is not really new, he is kind of new. We are all new on this Committee, and I look forward to working with Mr. Denham on issues that we have mutual interest in, and Ms. Hanabusa from Hawaii, but I just feel encouraged that we have put together a very good working Committee on this issue.

Let me ask one question. On your nation-to-nation program where you have funding of $42.3 million, what activities or mission do you foresee them being involved in, and how will it be able to help particularly the smaller tribe who don't have the resources very often to get involved in these various programs?

Mr. ECHO HAWK. Within the nation-to-nation initiative where we are asking for a $42.3 million increase, the centerpiece or foundation of that initiative is the contract support, and this is the top priority, as I mentioned, from our tribal leaders that we consult with, and we have been told, you know, in those meetings that the tribes would be interested in contracting or compacting additional programs. I think we have about 3,200 programs that have already been contracted, but the tribes would like to do more of that so

within this initiative there is $4 million that is requested to go into the Indian Self-Determination Fund that would allow more tribes to contract or compact.

And with regard to the small tribes, our concern there is that all tribes should be able to operate the very basic programs of the tribal government, and oftentimes if you are real small you cannot do that, so we give special attention to those tribes that have populations of less than 1,700 or tribal priority allocation of under $160 for the lower 48 and I think it is 200,000 for the Alaska tribes. So, we are putting more money into that fund to try to raise those tribes up to a certain threshold.

Mr. KILDEE. Thank you very much. I am very encouraged by that. Thank you, Mr. Chairman.

Mr. YOUNG. Mr. Luján.

Mr. LUJÁN. Mr. Chairman, thank you.

Mr. Secretary, over 90 percent of the Jicarilla Apache Nation's government operations are funded with revenues from production of their oil and gas resources. Most of the oil and gas leasing activity on the Jicarilla Reservation is conducted in accordance with the Indian Mineral Leasing Act of 1938.

The IMLA sets forth responsibilities on the Federal Government, specifically on the Secretary of the Interior, to manage and regulate mineral leasing so as to ensure maximum benefit to the tribes. Despite the fact that there are at least three separate agencies within the Department of the Interior's jurisdiction over Indian leasing—Bureau of Indian Affairs, Bureau of Land Management, and Minerals Management Service—the Jicarilla Apache Nation has suffered tremendous losses because they have not been informed of non-compliance by operators of leasees until months or years after non-compliance has occurred.

If non-compliance is not addressed, leasees go into bankruptcy, and use tribal leases as leverage. Tribes then have to spend valuable and sparse resources to battle leasees in Bankruptcy Court.

I want to elevate this issue to your level because these are Federal leases and the Department has the trust responsibility to the tribes. This affects the nation's ability to collect due revenues, royalties, taxes which directly impacts the Jicarilla Nation's ability to provide essential government services to tribal members and reservation residents.

In the budget I notice there are program reductions for real estate services and minerals and mining projects. My questions are, will these budget reductions prevent BIA from adequately addressing the notification of non-compliance issues and what is the Agency doing to address the issue of non-compliance, and will you be willing to work with the Jicarilla Apache Nation to resolve this issue?

Mr. ECHO HAWK. Congressman Luján, with the Chairman's permission I would like to ask the Bureau of Indian Affairs director to respond.

Mr. YOUNG. I have no objection.

Mr. BLACK. Thank you, Congressman.

In response to the budgetary questions, we did an evaluation of the Jicarilla agency budget, and the cuts that are made in those

certain areas won't have an effect on our ability to carry out our responsibilities under the oil and gas leasing.

In response or in regards to the compliance with the contracts and the leases, that is a shared responsibility between ourselves and Office of Natural Resource Revenue, formerly MMS, and we rely on MMS to notify us in times when a leasee is non-compliant in their payments, and we are going to have to be working closer with ONRR in order to ensure that we get timely notification of those things so that we can fully enforce our compliance requirements.

In addition, we are going to work—we need to work closer with the Jicarilla Apache Tribe regarding bonding issues to determine if that is a factor involved here, and then looking at any other best course of action that we can.

Mr. LUJÁN. Thank you. Mr. Chairman, what I would hope is that if this is another aspect of MMS that is broken, that we fix it because not notifying them and then forcing them to go into litigation, wasting valuable resources is not the way to encourage being responsible when it comes to our resources, so I hope that is something we can look at.

One other project that I am concerned about is on the Navajo Nation Indian Irrigation Project. This is a project where we are seeing a reduction of $9 million in the 2012 budget, and as you know, after years of intense negotiations between the United States and the Navajo Nation, in 1962 the Congress enacted the Navajo Indian Irrigation Project to fulfill in part the U.S. treaty obligation with regard to water supplies.

I am not sure why this project is being reduced, but I would certainly encourage that in light of the legal obligations still in place that we pursue equitable resolutions from the Department, and Mr. Chairman, I am respectful of our time as well, this is something that I, without any objection, would gladly submit it for the record so we can get a response a little bit later.

Mr. YOUNG. That is good. Without objection.

The young lady from Hawaii.

Ms. HANABUSA. Thank you, Mr. Chairman. Mr. Chairman, I would like to thank you for your very strong statements of true nation-to-nation relationship.

Mr. Secretary, as I understand it and you mentioned it prior in response to someone about the statements regarding the schools that were built under the ARRA funds. Now, it is also my understanding from the report compiled by the Council of Environmental Quality that NEPA actions for projects under the ARRA was also part of that review, and there were 113 schools, 190 housing projects, and 379 road projects, and they were all reviewed under NEPA as I understand it,and still the constructions were able to go forward.

Can you tell us whether there was any problems with that or how did that process work so successfully?

Mr. BLACK. Congresswoman, in response to that, you know, the NEPA process was basically the standard process we follow with all of our construction projects regardless of the type, whether it be road maintenance, road construction or facilities construction, and we were just essentially able to do that somewhat in an expedited

fashion I think in some cases, but generally it fell under our normal processes which in some cases is somewhat different in construction that we are dealing with in the area of leases.

Ms. HANABUSA. But this is standard modus operandi for all of you for all of the projects that are covered under the AARA. You didn't have anything special in some footnote under AARA that allowed you to ignore it or anything like that?

Mr. BLACK. No, ma'am, not that I am aware of.

Ms. HANABUSA. But you did use the word "expedited". What was that?

Mr. BLACK. We put additional resources where necessary in some of those program areas in order to get these dollars out on the street.

Ms. HANABUSA. So it was more expedited by yourself than——

Mr. BLACK. Yes.

Ms. HANABUSA.—then process itself?

Mr. BLACK. Yes.

Ms. HANABUSA. Thank you.

Mr. Secretary, there is something that I was interested in from your prior testimony. I am also a strong advocate of the nation-to-nation relationship. You said something in response to my question, that that is a priority for Indian Country, and we were talking about the contract aspects. When you say that is a priority for Indian Country, can you define for me who do you mean when you say Indian Country, and what is the consultation process that you go through so that you can speak for Indian Country?

Mr. ECHO HAWK. Congresswoman Hanabusa, it is probably the law professor part of me coming out when I say Indian Country because that is a legal term of art that actually describes the jurisdiction of the United States that comes with special obligations, and we have 565 tribes that are Federally recognized, so that is the nation-to-nation relationship that we have.

Ms. HANABUSA. But when you speak on behalf of Indian Country who are you speaking on behalf of? Are you speaking on behalf of the majority of 565 tribes or are you just surmising from your conversations with 565 tribes that this particular issue is their number one priority?

Mr. ECHO HAWK. Well, you know, Congressman Hanabusa, I need to be more careful in probably some words that I say, but a few minutes ago I said that I try to advocate the positions from Indian Country, and oftentimes tribal leaders ask me to do that, but I was going to make a follow-up comment to the Chairman that those tribes are very capable of speaking for themselves, and you know, they may ask me to be their advocate, but you know, I need to always recognize that their voices is the more important voice when they communicate nation to nation. It is not the Assistant Secretary's voice that really counts as much as their own.

Ms. HANABUSA. Mr. Chairman, what I would like to know, and you can respond to me in writing if the Chairman permits this, is what if there is a conflict among the tribes? Who then speaks for Indian Country or what is the position if you come before us and you tell us this is Indian Country's position?

Thank you, Mr. Chairman.

Mr. ECHO HAWK. Congressman, I would simply go back to that same comment that their voice is the more important, especially if there is conflict because I cannot speak for both sides.

Mr. YOUNG. I thank all the Members. We are going to bring this meeting to a halt. I will say one thing for the lady from Hawaii. There will always be conflict in Indian politics. That is one of the most difficult things we face, and my urging to them is not to be too much of a conflict to work together to achieve goals. I have seen it work. It can be fantastic. Where there is division you are going to die, and when you are a unity you are going to really survive and progress and that is very important.

I want to thank the two witnesses. There will be written questions submitted to you. We hope you get the answers back as soon as possible and, for the rest of the Members, keep in mind this is a proposal of the President's and these people have been speaking for the President and presented their points of view, and our job is to write the budget. That is our job now to convey what we believe is correct to the appropriate appropriations committee so we will write a budget to try to solve the problems, and where there is a difference with the President, we will solve that problem. This is not Democrat and Republican. We only have one constituency to represent, and I believe we can do that.

With that, this meeting is adjourned.

[Whereupon, at 12:33 p.m., the Subcommittee was adjourned.]

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