

**Testimony before the House Committee on Appropriations: Subcommittee on the Interior,  
Environment, and Related Agencies**

**April 25, 2013**

**Submitted by Rosemary Morillo, Chairwoman  
Soboba Band of Luiseño Indians**

**Introduction**

My name is Rosemary Morillo, and I am the Chairwoman of the Soboba Band of Luiseño Indians. My tribe is located in southern California, in the foothills of the San Jacinto Mountains, across the San Jacinto River from the city of San Jacinto. We have lived in this area since time immemorial. I am here today to testify for the need for appropriations to federal programs in Indian Country. I will discuss funding to the following agencies and programs:

1. Department of the Interior (“DOI”) for the processing of fee-to-trust applications; and
2. Bureau of Indian Affairs (“BIA”) to exempt fee-to-trust consortium employees from furloughs, and to implement a Carciari fix; and
3. Bureau of Indian Education (“BIE”) to support the Noli Indian School; and
4. Indian Health Service (“IHS”) to fully fund healthcare programs and contract support costs, and to eliminate any tribal caps on contract support payments; and
5. Temporary Assistance for Needy Families (“TANF”) to support tribally run programs; and
6. Army Corps of Engineers (“ACE”) to request a feasibility study to address water resource development at Soboba.

**History and Background of Soboba**

Soboba relied upon the water from the San Jacinto River, its tributary streams, and more than forty springs for our survival. Much of our aboriginal land was taken from us by American settlers, the state of California, and the U.S. government.

In 1883, the President of the United States established a reservation for us by Executive Order. However, the reservation land did not include our ancestral village, cultivated lands, and major springs that we depended on. Our water sources were continually diverted off reservation until finally, all of our water sources dried up. We are reacquiring some of our water resources as a result of litigation and a water settlement in 2008. However, we still struggle with land use issues. Although Soboba has almost 7,000 acres of trust land, fewer than 600 acres remain available for development. This is due in part to the fact that the United States condemned 300 acres of our prime land to protect the non-Indian community next to the reservation from flooding.

**Sequestration**

Sequestration is affecting Indian Country disproportionately. Poverty on the reservations is more than 2.5 times higher than the total population, while unemployment rates on the reservations are, on average, twice as high as the total population.<sup>1</sup> Most federally-funded Indian programs fall within the non-defense discretionary spending category of the federal budget. For

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<sup>1</sup> NATIONAL CONGRESS OF AMERICAN INDIANS, (2013) *SECURING OUR FUTURES*. WASHINGTON, DC: AUTHOR, PG 4.

the fiscal year 2013, non-defense discretionary spending is 14.8% of the overall budget, whereas the BIA is 0.07% and IHS is 0.12% of the overall federal budget. During the first year of sequestration, there will be an 8.2% reduction in non-defense discretionary spending and 7.6% reduction in appropriations for direct spending. In addition to the cuts mentioned above, discretionary programs have already faced \$1.5 trillion in spending cuts through the Budget Control Act. These cuts are disabling federally funded programs in Indian country at a disproportionate rate.<sup>2</sup>

## **Department of the Interior** **Bureau of Indian Affairs**

### **To Support the Timely Processing of Fee-to-Trust Applications**

It is essential that Congress fully fund the DOI and the BIA in order for tribes to take land into trust. "Taking land into trust is one of the most important functions the Department undertakes on behalf of federally recognized American Indian and Alaska Native tribes, whose homelands are essential to their people's health, safety, and economic well-being."<sup>3</sup> This important function helps tribes like Soboba regain their aboriginal homelands. Presently, fee-to-trust applications take a long time to process. It is important that Congress adequately fund the DOI in order to hire additional staff in Washington, D.C., and in the twelve BIA regional offices, so that BIA employees can process fee-to-trust applications faster.

### **To Exempt BIA Fee-to-Trust Consortium Employees from Furloughs**

In California, BIA Pacific Regional staff who work on fee-to-trust acquisitions are set to face imminent furloughs due to the sequester. The Pacific Regional Office already has a backlog in processing fee-to-trust applications. Most tribes in California do not have sufficient land to meet current housing, community, and economic development needs and a significant number are landless. The California Fee-to-Trust Consortium was established to create a Memorandum of Understanding ("MOU") between tribes and the BIA Pacific Regional Office to expedite processing of fee-to-trust applications. Tribes fund the work of fee-to-trust staff through Tribal Priority Allocations. BIA fee-to-trust staff should be exempted from furloughs because they are funded by Consortium member tribes through the MOU.

### **To Support Soboba's Efforts to Transfer Horseshoe Grande into Trust Land**

At Soboba, much of the Reservation is steep and mountainous, and most of the developable land lies adjacent to the San Jacinto River. Much of it is useless, however, because in the mid-1960s the United States sued Soboba to condemn more than 300 acres of prime Reservation real estate to allow it to flood, so that the non-Indian land on the other side of the river would not require as high a levee to protect it. Thus, Soboba is limited in where it may place economic development ventures. Soboba is intent on reacquiring aboriginal lands, and specifically to convert 534.91 acres of tribally-owned property (Horseshoe Grande Site) that is contiguous to the boundaries of the Soboba Indian Reservation to Federal trust status. The

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<sup>2</sup> <http://www.fas.org/sgp/crs/misc/R42675.pdf>, The Budget Control Act of 2011: Budgetary Effects of Proposals to Replace the FY2013 Sequester, November 9, 2012.

<sup>3</sup> News Release by U.S. Dep't of the Interior, Office of the Assistant Sec'y-Indian Affairs, President's Fiscal Year 2014 Indian Affairs Budget Focuses on Strengthening and Supporting Tribal Nations (Apr. 10, 2013)([www.doi.gov](http://www.doi.gov)).

Horseshoe Grande Project would create a sizable source of employment for tribal members and residents of the local communities. Staff at BIA should be fully funded in order to process these important fee-to-trust applications.

### **To Support the President's Budget Request for a Carcieri Fix**

Soboba supports the President's Budget request for a no-cost Carcieri fix. In 2009 the Supreme Court ruled against tribes in *Carcieri v. Salazar*. The case has a serious negative impact on tribes by forcing tribes to prove that they were under federal jurisdiction in 1934 in order to have land transferred into trust. *Carcieri* has the following impacts on tribes: 1) *Carcieri* creates the unequal treatment of federally recognized Indian Tribes; and 2) it threatens public safety and tribal law enforcement; and 3) it is a barrier to economic development; and 4) it freezes access to capital; and 5) it increases federal litigation over settled federal policy and practice.<sup>4</sup> Congress should support the President's Budget, to amend the Indian Reorganization Act, which mirrors the language of H.R. 666.

## **Bureau of Indian Education**

### **To Support Grant Programs to Continue the Operation of the Noli Indian School**

Soboba runs the Noli Indian School. Noli School is funded, in part, by federal grants. The student population is made up of all Native American students, and represents approximately twenty-seven tribes. Students are bussed in from local reservations within an 80-mile radius of the school. Noli School teaches culture and language classes to its Native students. Congress should fully fund the Johnson O'Malley program, Student Transportation funds, and Tribal Grant Support Costs programs so that Soboba can continue to operate its tribal school.

## **Health and Human Services Indian Health Service**

### **To Increase IHS Funding**

IHS facilities around Indian Country provide health care to our Indian communities that were promised to us by the federal government through treaties. IHS is consistently underfunded. For example, most IHS clinics are incapable of providing sexual assault examinations to Indian clients who have been raped. It is essential that IHS funding is increased to provide these and other essential medical services to our Indian people. Additionally, Congress should provide funding for staffing at IHS facilities, new facility construction, alcohol and substance abuse prevention and treatment programs, as well as dental and mental health programs. These programs are essential to Indian Country to help fulfill the government's promise to us.

### **To Eliminate Contract Support Cost Tribal Caps**

Contract support costs need to be fully funded at BIA and IHS, consistent with the Supreme Court decision in *Salazar v. Ramah Navajo Chapter*. Soboba does not support the tribal caps on the payment of contract support costs in the President's Budget. Contract support cost funding helps tribes pay health care costs when alternative health care facilities contract with the federal government to provide health care to Indian people.

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<sup>4</sup> S. Rep. No. 112-166 at 142 (2011-2012).

## **Temporary Assistance for Needy Families**

### **To Fully Fund Tribally Run TANF Programs**

Soboba administers its own tribal TANF program for Indian families living on the Soboba Indian Reservation. Tribal TANF is a federally and state funded program that provides time-limited assistance to needy families with children. Soboba relies on federal funding to operate its program. “One of the greatest elements of the tribal TANF program is that it allows for Native children who would normally be lost in the foster care system to be cared for in their homes or in the homes of their relatives.”<sup>5</sup>

All tribal TANF programs should be fully funded. Tribes should be able to renegotiate their funding levels using their case loads to determine base funding levels instead of keeping tribes locked into funding rates from 1994. Currently, families can only receive benefits for five years. This federal standard is unfair due to the high unemployment and poverty rates on reservations. This unfair standard should be eliminated.

### **Army Corps of Engineers**

#### **To Fund the ACE to Conduct a Feasibility Study at Soboba**

Soboba is requesting a feasibility study to address the water resource development and management needs of our tribe. This study is necessary to supplement the tribe’s need for new sewage infrastructure that will replace its present residential and commercial septic systems.

The Soboba Settlement Act (Pub. L. 110-297) provided \$11 million “to pay or reimburse costs associated with constructing, operating, and maintaining water and sewage infrastructure, and other water-related development projects.” Those funds have been completely expended on a new reservation water storage and distribution system and leave no funding for the sewage infrastructure. Replacement of the reservation septic systems is a critical step in protecting the water supply of the San Jacinto groundwater basin, which is one of the primary objectives of the Soboba Settlement Act.

Condemnation of the easement occurred in connection with the San Jacinto River and Bautista Creek Improvement Project, authorized by Congress under Title II, Section 204 of the Flood Control Act of 1950. Among other things, the project involved the construction of a levee on the west side of the San Jacinto River, opposite the Reservation, to protect the non-Indian communities of San Jacinto and Valle Vista from flooding. Rather than build a similar levee on the east side to protect the Reservation, however, the federal government opted to allow it to flood. When Soboba objected, the United States went to court and in 1966, over Soboba’s objection, obtained a 296-acre flowage easement, as well as fee simple title to a 20-acre tract, encompassing some of the best land on the Reservation.

It is on part of this condemned land that Soboba now needs to locate its wastewater treatment plant. Construction of a flood control levee is an essential component of the project because the only practical Reservation site for the wastewater treatment plant is within the flowage easement for the San Jacinto River which was condemned by the United States. Construction of the levee would allow the easement to be vacated, thus providing a site for the treatment plant as well as correcting a historic injustice suffered by the Soboba people. Congress should fund the ACE for \$1,700,000 to complete Soboba’s feasibility study.

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<sup>5</sup> Shonta Chaloux, the Executive Director of Soboba Tribal TANF program