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U.S. House of Representatives Committee on Appropriations Subcommittee on Interior, Environment and Related Agencies

Testimony of Ute Tribal Business Committee Member Tony Small

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Good afternoon Mr. Chairman and Members of the Appropriations Subcommittee on Interior, Environment and Related Agencies. Thank you for the opportunity to testify on behalf of the Ute Indian Tribe of the Uintah and Ouray Reservation. As in past years, our testimony asks this Subcommittee focus on a few areas where increased attention and funding can make a significant impact for the Tribe and much of Indian Country. These areas are Indian energy development, tribal court and law enforcement systems, and the Indian Health Service (IHS). We are also asking for specific start up dollars for our new tribal justice center.

First, the Tribe requests that the Subcommittee fully support BIA's proposal to provide \$4.5 million to establish an Indian Energy Service Center that will assist local BIA Agency Offices process energy permits. Working on our own and with the Coalition of Large Tribes (COLT), the Tribe has been a strong advocate for increased funding and streamlined permitting for Indian energy resources. BIA's proposed Service Center is a direct result of the Tribe's efforts and the services it will provide are needed.

BIA's proposed Service Center is needed to improve and streamline the oil and gas permitting process. A single oil and gas permit requires approval by multiple federal agencies who often lack the staff or expertise to efficiently manage the permitting process that seems to grow every day. Just last week, BLM added to the process with new hydraulic fracturing requirements that will further slow oil and gas development on Indian lands.

To help address this problem, the Tribe recommends that the Subcommittee direct BIA to focus Service Center resources on oil and gas permitting. This focus is needed because on-reservation oil and gas development is permit intensive. While federal expertise and assistance is also needed to help tribes participate in the growing renewable energy industry, a tribe is likely to need only one or two permits for its renewable energy projects. A Tribe with oil and gas resources, however, will need hundreds or even thousands of federal permits.

The Tribe also recommends that the Subcommittee direct Interior to include all relevant federal agencies within the Service Center to improve its effectiveness. Congress has long recognized that oil and gas development requires extensive coordination among federal agencies.

In fact, the “Pilot Project to Improve Federal Permit Coordination,” enacted in Section 365 of the Energy Policy Act of 2005, was created for that very purpose. This Pilot Project - which has now been made permanent – includes the Fish and Wildlife Service (FWS), the Environmental Protection Agency, the Forest Service and the Bureau of Land Management (BLM), as Congress has recognized that the participation of each of these agencies was necessary to fulfill statutory requirements. That same multi-agency participation in the BIA’s proposed Service Center is necessary for those very same reasons.

The Tribe also asks that the Subcommittee focus the same attention on oil and gas permitting on Indian lands as it does for energy development on Federal lands. While BIA’s proposed Indian Energy Service Center is a good start, Congress and the Administration should do much more to recognize the value of Indian energy development. Interior’s FY16 Budget in Brief reports that royalties from oil and gas development on Indian lands is about one-third of the royalties generated on Federal lands. Yet, BIA’s oil and gas budget is only a small fraction of the amount provided to BLM for its onshore oil and gas efforts on Federal lands.

The Ute Tribe is only able to produce about 10 percent of its capacity because of limited BIA funding. In fact, our industry partners continue to cite the federal permit process as their single biggest business risk. We therefore ask that the Subcommittee support full funding for the BIA’s proposed Indian Energy Service Center and we also ask you to provide additional funding to hire experienced staff in local BIA Agency Offices. Some permitting work has to be done at the local level and the Service Center cannot be as effective without it.

Second, we are requesting the Subcommittee to provide FY16 startup funds for our new Tribal Justice Facility that will be completed in February of 2016. After almost a decade of inaction by the BIA, the Tribe was forced to construct this facility with its own funds. While the Tribe is constructing the facility, once completed, the law enforcement and detention portions of the facility will be operated by BIA and its federal employees. As a result, a big portion of the facility is going to be providing much needed federal space. We will also need FY17 funds to pay for BIA funded staffing and operation and maintenance costs for this new facility, so please include those funds in your future planning efforts.

A new facility was needed because our old detention facility was forcibly closed by the Federal government in 2006 due to safety and health concerns. While its court and law enforcement space was kept open after the Tribe funded repairs to those areas of the building, the BIA knew that the entire facility needed replacement and it made that commitment to us in 2006. This replacement facility remained at the top of the BIA’s construction priority list for almost a decade, yet federal funds were never appropriated. This delay left - and continues to leave - our BIA and tribal officers utilizing inadequate detention space in nearby county facilities where our people are subject to clear discrimination and mistreatment. In fact, the detention space limitations imposed by the counties have become so serious that our tribal judges are now forced to decide whether to release one prisoner in order to incarcerate another.

With no federal help in sight the Tribe was forced to obligate \$40 million of tribal funds to solve this problem. Before beginning this effort; we went to the BIA, discussed the situation and obtained their participation in our planning and design approval process. When completed,

this building will solve the detention, law enforcement and court space problems currently plaguing both the Tribe and the BIA as all three functions will be housed in one building. It will also provide us with the additional court space that we need in order to fully implement VAWA.

Despite the BIA's on-going involvement with this effort, the project's schedule did not allow adequate time for the Agency to request start up and pre-opening monies in its FY16 budget. We do, however, invite you to discuss this project with Office of Justice Services' Director Cruzan and BIA Director Mike Black because I am confident that they will personally support our request, especially since the detention and law enforcement functions which will be housed in this building will be operated by the BIA itself.

Of course, the Tribe strongly supports BIA's on-going efforts to find alternatives to the long-term incarceration of Indian persons with alcohol and drug problems. In fact, our new facility was designed with that in mind. We have an existing tribal treatment program which our courts will continue to use and we will also continue to make use of the BIA's Yuma treatment/detention program.

The persons who will be detained in this new detention space are persons: (1) who are awaiting arraignment, (2) who do not qualify for pre-trial release or house arrest for safety reasons, (3) who our tribal judges believe require short term incarceration even though other alternatives are available, and (4) who otherwise meet the definition of Tier 1 eligible individuals. In short, our goal is to continue to use incarceration only when necessary to insure tribal and societal goals.

While our geographic distance from neighboring tribes limits our ability to operate this building as a regional detention facility, we are talking with BIA and some of our neighboring tribes about ways that this facility can support their efforts. We are also exploring ways that our detention and court staff can work cooperatively with our existing social service and health programs to minimize a person's stay in this facility and address the problems that brought them before the court in the first place.

The Subcommittee's support is also needed for more adequate law enforcement on our Reservation. Our Reservation is the second largest reservation in the Country, yet we are served by only eight (8) officers. This shortage leaves us with only 2 or 3 officers per shift to cover communities that are up to 60 miles apart. The result is lengthy response times and an ever-increasing number of unsolved crimes. To make matters worse, these 8 officers have been subject to inconsistent federal budgets and dramatic funding cuts from sequestration. While we are pleased that this Subcommittee has provided small increases in law enforcement funding over the last few years, when these meager increases were distributed nationwide they did not result in any increase in law enforcement on our Reservation.

Due to the absence of law enforcement, our communities have seen a significant increase in gang activity and in the sale of illegal drugs. Because of our shortage in police manpower, state and county police officers are also regularly making illegal arrests of tribal members on Indian lands, simply because there are no BIA officers available to respond to those police calls. While we have been attempting to negotiate a fair and honorable policing agreement with state

and county governments that protects our sovereign rights, this has proven difficult to do because of our shortage in officers.

Our neighbors have even gone as far as arguing that the Federal government and the Tribe had abandoned federal criminal jurisdiction in certain areas on our Reservation via their failure to enforce applicable law. As positions like this are so dangerous, we have actually been forced to go to federal court, just to protect our own tribal jurisdiction.

As we testified last year, the Tribe was pleased with the passage of the Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Act (VAWA). However, Congress cannot simply pass laws authorizing change. Congress must also appropriate the funding needed so that BIA and Indian tribes can make change happen at the local level. Despite all of the important Congressional findings and statements made during the debate leading to the passage of TLOA and VAWA, today many of our local police calls, including those involving domestic violence and child abuse, still go unanswered. Even when an officer is available to answer a call, it is difficult to bring a successful prosecution when the officer arrives long after the crime was committed and evidence was lost, destroyed or tainted. Despite the fine language in TLOA, today most of the funding for our tribal court comes from the Tribe, not the federal government.

The Tribe would also like to thank Congressman Cole for his interest in exploring ways of addressing health and social service issues through the Health and Human Services Appropriations Subcommittee he chairs. If that can be done, we recommend that his Subcommittee look at the holes left unfilled by the federal government's failure to fund many of family assistance, substance abuse, mental health and diversion programs called for in TLOA and VAWA. There are a number of Health and Human Services (HHS) programs that could help fill those gaps, but to be effective these program funds need to go directly to tribes in the form of long term direct funding. We cannot run programs of this importance on unreliable grants. Tribes also need to be able to contract for those HHS dollars under P.L. 93-638, and they need to have the ability to combine those HHS funds with the funding already provided by IHS and BIA. In short, tribes need to be able to operate a single program under a single set of standards. We have seen what happens when we are forced to tailor our activities to agency requirements rather than local need - money is wasted and the programs are less effective.

Additionally, we ask that the Subcommittee support the proposed increases in funding for IHS. We also ask that you make every effort to provide additional funding for those programs if at all possible. The requested increases do not make up for losses we suffered from three years of unfunded inflation, nor do they replenish the full sequester losses that we incurred.

Finally, the Tribe strongly supports the President's proposal to fully fund Contract Support Costs and its request to reclassify those costs as mandatory funding beginning in FY17. Contract Support Costs are not just a contractual obligation; they are a key component to the successful implementation of Indian self-determination.

Thank you for the opportunity to testify today. The Ute Indian Tribe stands ready to assist the Subcommittee in support of these budget requests in any way possible.