



UTE INDIAN TRIBE

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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 Vice Chairman Ed Secakuku

March 18, 2016

Good afternoon Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to testify. As in past years, our testimony asks this Subcommittee for support in two areas where increased attention and funding can make a significant impact for the Tribe and much of Indian Country. These areas are law enforcement and detention, combined with alcohol and substance abuse treatment, and energy development on Indian lands.

FUNDING FOR STAFFING AND OPERATING THE TRIBE'S NEW JUSTICE CENTER

As you are aware from our past testimony, the Bureau of Indian Affairs' (BIA) constructed and BIA operated detention center on our Uintah and Ouray Reservation was forced to close in 2006 when that facility become unsafe for detainees and staff. Luckily, when that happened, the Ute Indian Tribe was able to use tribal funds to repair areas of the otherwise dilapidated building which were housing our BIA law enforcement and tribal court. Thus, they were not forced to close. But, given the age and condition of the building those repairs were only temporary.

When our facility was closed, BIA made a firm commitment to replace it as soon as possible and, to its credit, BIA placed the facility at the top of its law enforcement construction priority list. It also used taxpayer funds to help us complete a pre-planning study for a new facility. Unfortunately, by the time that the pre-planning study was completed, BIA had stopped funding detention facilities and tribal court construction in Indian country. This left the Ute Indian Tribe with a serious problem. We have the second largest reservation in the country and criminal jurisdiction over Indians activities on our reservation is exclusively federal and tribal.

Things became difficult almost immediately. Having no place to house arrested persons or sentenced offenders, BIA started sending our people to county jails where they were subject to racial discrimination and mistreatment. To make matters worse, BIA's agreements with these facilities were, and still are, so limited that our tribal judges are often forced to release one prisoner in order to detain another.

To be clear, the Ute Indian Tribe will be among the first to support alternatives to incarceration whenever possible, but like most large land based tribes, we have become frustrated with the way that this goal is currently being viewed. Our law enforcement officers and judges are skilled professionals and they know our community better than any outsider. Thus, they are in the best position to judge when they can deliver someone home with a Notice to Appear, and when doing so endangers the public.

We have cases of domestic violence, drug trafficking and gangs where, more often than not, those involved need to be taken off the street. Ankle bracelets and appearance notices simply do not work in these instances, especially when we have so few officers to respond to violations. I ask you, if someone was threatening to harm your daughter, and if they had actually done so on two prior occasions, would you want them sent home with an ankle bracelet when you know that the police response time is well over an hour. These are the situations that get ignored when people focus exclusively on “alternatives to incarceration”. So, in short, there are some jails and some tribal courts that Indian Country simply cannot do without and ours is one of them.

When drugs became a serious problem in our community, the Ute Indian Tribe had no choice but to act. First, we met with BIA budget staff. We were told that even though our jail was still at the top of the BIA’s replacement priority list, budget constraints were preventing BIA from reinvigorating its jail and court construction program. Then we went to the Department of Justice (DOJ), where we found that its’ detention facility construction program was incapable of funding a structure the size that we required to meet BIA specifications. We also learned that the few dollars that DOJ did have available for detention related construction activities came with a multitude of restrictions which undercut the integrity of construction efforts, so we closed that door as well. To be honest, I am glad we did, because a year after our last meeting with DOJ, they stopped funding new construction of tribal jails and court buildings all together. Thus, any DOJ money that we would have utilized would have resulted in a misuse of taxpayer dollars.

With no federal help in sight, the Ute Indian Tribe was forced to obligate and expend over \$36 million of its own tribal funds to replace its BIA’s original Justice Center. The building we have constructed replaces our old BIA operated jail, provides a new suitable place to house our BIA operated law enforcement, and adds the additional court space that we need to fully implement the new provisions of the Violence Against Women Act and the expanded jurisdiction provisions of the Tribal Law and Order Act.

With the full involvement of BIA’s Office of Justice Services, we followed the same procedures that we would have followed if BIA or DOJ had been funding the construction. BIA was involved in the development of the program of requirements, it approved the construction plans, it is performing the final inspections of the building, and it has prepared the pre-opening, staffing and operating budgets for the facility. Given the fact that this is a replacement facility which BIA’s Office of Justice Services clearly wants, and the fact that BIA had been intimately involved in its planning and design, we were shocked to see that no operating dollars for this facility were included in BIA’s FY 2017 budget request. We need your help to correct that problem and we are today submitting the \$4.85 million request that BIA should have submitted on our behalf.

PROVIDING TREATMENT SERVICES IN OUR JUSTICE FACILITY

Under BIA's planning procedures, the detention areas in our new justice center were slightly oversized to accommodate increases in population over time. This led us to start thinking early on about how we might be able to utilize this extra space to stop future crime. We have long recognized that in our community, and in the other Indian communities in our region, a sizable percentage of the people who come before our criminal justice systems are there because of alcohol or substance abuse. Alcohol and drug addictions lead people to commit crimes, they destroy families, and they ultimately cost the taxpayers a sizable amount of money.

Through conversations with BIA's Office of Justice Services, we learned of the success that BIA has had in providing detention based alcohol and substance abuse treatment programs to sentenced Indian offenders. We also learned that despite the proven success of this program, and despite the sizable drop in repeat offenders that it is creating, BIA is still forced to procure these services from private non-Indian contractors when, and only when, it can find monies to do so. Given the numerous studies showing the clear relationship between alcohol and substance abuse on on-reservation crime, it makes no sense that a full six years after the passage of the Indian Law and Order Act, there is still no Indian operated detention facility in the country offering a culturally driven, professionally staffed alcohol and substance abuse treatment program to Indians. We want to change that by creating the first of these programs at our justice facility and by opening that program up to sentenced offenders from around Indian Country.

When we embarked on this idea, it seemed proper that we could obtain a percentage of the operating funds for this treatment effort by billing Medicare, Medicaid, and by working with the Indian Health Service (IHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA). However, we were shocked to learn that Medicare and Medicaid laws prohibit the use of their dollars to treat "sentenced" persons, and even more shocked to learn that federal law does not allow IHS and SAMHSA employees, or IHS or SAMHSA funded persons, to treat addicted individuals in tribal/federal jails.

Both of these laws make no sense, and should be changed, but until they are, we are asking for \$750,000 in IHS funding to create this program and a waiver of IHS's existing policies prohibiting IHS funded treatment in our tribal jail. We believe that this effort is consistent with the federal "alternatives to detention" policy and that it is a cost effective program that can make a real difference to the individuals and the tribal communities it proposes to serve.

SUPPORT FOR THE INDIAN ENERGY SERVICE CENTER

The Ute Tribe would like to thank the Subcommittee for providing the \$4.5 million that the BIA requested in FY 2016, to establish an Indian Energy Service Center that will assist local BIA Agency Offices in processing energy permits. The Ute Tribe have long been a strong advocate for increased funding and streamlined permitting for Indian energy resources and the Service Center that the BIA is currently developing is a direct result of the efforts that we put forth with other tribal energy producing tribes.

Given the strong support for this new Service Center, we cannot understand why the BIA has not requested the funding required to implement the next phase of this effort. From its inception, the BIA Director and his staff have told us that this Service Center would be set up and staffed over a two or three year period, and that the success or failure of this Service Center will rest squarely on its ability to hire the full complement of staff laid out in its operating plan and adequately fund their efforts. We therefore call upon the Subcommittee to add the remaining \$13 million necessary to fully fund the Service Center so that it can open and operate at the level intended as quickly as possible.

The Administration and Congress must focus the same attention on oil and gas permitting on Indian lands as it does for energy development on federal lands. The failure of BIA to request the funds needed to fully implement the Indian Energy Service Center is just one example. More broadly, BIA's energy budget should be increased to levels provided for the BLM to manage federal public lands.

In FY 2017, the President requests \$187 million for BLM management of conventional energy resources. This is a \$28 million increase. Meanwhile, the President requests only \$5.9 million for BIA and no increase over last year. BIA's energy budget is almost the same as Fish and Wildlife Service's energy budget. This is an outrage!

Congress and the Administration must do more to recognize the value of Indian energy development. Indian energy development provides needed jobs and economic development in Indian Country and often rural areas surrounding our reservations. In addition, we use the funding from Indian energy development to fund our government, make up for BIA and IHS budget shortfalls, provide services to our members, and maintain our infrastructure. The benefits of Indian energy development far exceed the benefits from energy development on federal public lands.

In our case, the Ute Indian 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 provide needed funding to implement 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.

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