



## **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 May 17, 2017**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify. The Ute Indian Tribe asks this Subcommittee for support in law enforcement and energy development which would make a significant impact for the Tribe and much of Indian Country.

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

Prior to 2006, the Bureau of Indian Affairs' (BIA) operated a direct service detention program in a federally funded building on our Uintah and Ouray Reservation. This building also housed our BIA operated law enforcement command center and our Tribal Court. BIA was forced to close its detention space in 2006, when it became unsafe for detainees and staff. Fortunately, when that happened, our Tribe was able to come up enough tribal funds to repair the Tribal Court and law enforcement areas of the building, so those programs remained open, but even those repairs were not sufficient to keep those spaces open long term.

When BIA closed its detention area, BIA listed the replacement of our detention/law enforcement facility near the top of its law enforcement construction priority list, and it funded a pre-design study for that new building. That study provided for both adult and juvenile detention. Unfortunately, by the time that the study was complete, Congress had stopped appropriating funds to both BIA and the Department of Justice for Indian detention, law enforcement, and tribal court construction. This left the Ute Indian Tribe with a serious problem. We have the second largest reservation in the United States and on our Uintah and Ouray Reservation criminal jurisdiction over Indians criminal activities is exclusively federal and tribal.

After waiting for years with no federal help in sight and facing an increase in violent crime, drugs and gang activity on our Reservation, the Ute Indian Tribe was forced to expend over \$36 million of its own tribal funds to replace the old BIA Justice Center. Knowing that we were building for federally operated law enforcement programs, we started and advanced this construction in full consultation with the BIA and its Division of Facilities Management and Construction (DFMC). We also made a concerted effort to keep this Subcommittee apprised of what we were doing. As a result, our building, which was completed in the late spring of 2016 using BIA/DFMC approved plans, meets all applicable federal size and use specifications. It

also holds a federal certificate of completion, a federal certificate of occupancy, and a federal health and safety compliance certificate.

Throughout the construction process, both BIA and the Tribe have been trying to find out what happened to the money, which had been funding BIA's old detention program on our Reservation, even though we knew that those funds would be inadequate for our new facility. To our disappointment, we learned that the funding for both the staffing and the operation and maintenance of that old building had been lost into the greater BIA budget.

This is understandable to some extent. Given the national need for Indian law enforcement funding, we understand that BIA could not sit on those dollars for eleven years. We did learn, however, that BIA has been using some of these funds to rent bed space in the Fort Duchesne County Jail as a part of its law enforcement responsibilities on our Reservation. As we have noted in our prior testimony to this Subcommittee, that funding is very limited and that agreement only allows for the detention of 14 adults, while our Tribal Court averages 39 or more adult detainees at any one given time. As a result, we are forced to release one serious offender in order to incarcerate another.

Because the need for detention space on our Reservation is so great, when our new building finally received its certificate of occupancy, BIA and the Office of Justice Services (OJS) agreed to reach into their very limited existing detention budget to bring in enough detention officers to open one of the adult holding areas of the building for pre-arrangement detainees. Both sides wanted to open the entire building, but we simply could not do that with existing federal funds. Desperate for this help, the Tribe in turn agreed to expend yet another \$1 million of tribal funds to pay for the start-up equipment and supplies needed to open that phase one interim detention program. BIA/OJS also offered the Ute Indian Tribe a Memorandum of Agreement (MOA), which we executed. That MOA authorizes federal occupancy of the detention and law enforcement areas of the building on a temporary basis, in exchange for a federal contribution to the operation and maintenance of those spaces.

Mr. Chairman, BIA, OJS and the Ute Indian Tribe have been doing their part to address the very pressing detention problem on our Reservation. In fact, as of today, the Tribe has paid exclusively from tribal dollars, over \$37 million in construction and start-up costs for a facility that would still be at the top of the BIA/OJS construction priority list, if that list were still in place today. Yet, even with this tribal contribution, the Tribe is still being forced to release prisoners in order to incarcerate others simply because BIA lacks the funds necessary to staff the remaining detention areas in our new building.

We respectfully request that this Subcommittee fulfill its treaty, trust and law enforcement obligations to the Ute Indian Tribe and provide the additional \$4,844,887 in re-occurring funds to fully staff and open the remaining sections of our adult and juvenile detention areas. We have attached a budget, which was prepared by the OJS Detention Program utilizing the same standards and methodology that has been used for every new tribal detention facility or space opened since the early 2000's. This budget covers personnel, fringe, travel, training, supplies and a small amount of additional equipment. Our eventual long-term goal is to provide our detainees, and other Indian detainees from our region, with detention based treatment for

alcohol and substance abuse, in order to help to insure that we lower the violent crime and drug abuse in our community and on other reservations in our region.

Mr. Chairman, we know that federal funds are tight, but we feel strongly that the Federal government cannot and should not be allowed to simply walk away from a federal law enforcement obligation in a geographic area that is exclusively under federal/tribal jurisdiction. The President has promised safe communities and the detainees that we are trying to manage are involved in serious crimes like domestic violence, drugs, gang threats and other serious offenses. We respectfully request your support for this important justice facility.

#### 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.

BIA has had success in providing detention based alcohol and substance abuse treatment programs to Indian offenders. Despite the success of this program and sizable drop in repeat offenders, BIA is forced to procure these services from private non-Indian contractors when it can find them, and when it can find the monies to do so. Finding any affordable treatment for Indian detainees has become almost impossible now that the privately owned Yuma Detention/Treatment Facility, which the BIA was actively using, has been closed by its owners.

The Ute Tribe had fifteen detainees seeking treatment in that facility on the day that it closed and today all fifteen of those people are now back serving their time in facilities which offer no comparable help. Given the numerous studies showing the relationship between alcohol and substance abuse and reservation crime, why is there 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 detainees from around Indian Country. However, Medicare and Medicaid laws prohibit the use of their dollars to treat "sentenced" persons. In addition, federal law does not allow the Indian Health Service (IHS) and Substance Abuse and Mental Health Services Administration (SAMHSA) employees or funded persons, to treat addicted individuals in tribal/federal jails. These laws should be changed, but until they are, we request \$750,000 in IHS funding to create this program and a waiver of IHS's existing policies prohibiting IHS funded treatment in tribal detention facilities.

#### SUPPORT FOR THE INDIAN ENERGY DEVELOPMENT

The Ute Indian Tribe would like to thank the Subcommittee for providing the \$4.5 million that 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.

As we enter into FY 2018, the Service Center needs additional funding to support and expand its mission. 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 request that 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.

We ask that the Administration and Congress focus the same attention on energy development on Indian lands as it does for energy development on federal lands. BIA's energy budget should be increased to levels provided for the BLM to manage federal public lands. In past years, BIA's conventional energy budget has been about 3 or 4 percent of BLM's conventional 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 overseen by BLM.

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 respectfully request that the Subcommittee provide needed funding to fully 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.

We also request that the Subcommittee fully support existing federal programs that could support investment in energy projects in Indian Country. There are at least three examples. First, more than a decade ago, the Energy Policy Act of 2005 authorized the Department of Energy to create an Indian Energy Loan Guarantee Program. This Program has never been funded. Second, the Department of the Interior's Office of Indian Energy and Economic Development has a successful loan guarantee program, but that program has never been funded at levels needed to support major energy projects. Third, additional funding should be provided to the Department of Treasury to issue additional Tribal Economic Development Bonds specifically targeted for energy development projects.

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.