



# MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes \* Fort Berthold Indian Reservation

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Office of the Chairman

## **U.S. House of Representatives Committee on Appropriations Subcommittee on Interior, Environment and Related Agencies February 11, 2020**

Good morning Chairwoman McCollum and Members of the Subcommittee. Thank you for the opportunity to testify on the appropriations priorities of the Mandan Hidatsa and Arikara Nation (MHA Nation). My name is Mark Fox. I am the elected chairperson of the MHA Nation's Tribal Business Council. Accompanying me today is Fred Fox, a member of our Tribal Business Council. Our testimony for FY 2021 is focused on the Federal programs supporting Indian infrastructure, tribal law enforcement, and health services within the Bureau of Indian Affairs and the Indian Health Service.

Each year I along with members of other Tribes speak to you about the need for additional funding and increased budgets. Each year we receive incremental changes in funding and the problems discussed continue to persist. For this reason, I ask this Subcommittee to consider making dynamic and substantial increases in funding. Applying the same old incremental funding bandages will not solve the issues facing Tribes today. Should you provide those same incremental increases the problems will not be solved and Tribes will be back in another 12 months requesting dynamic funding changes.

The problems facing the MHA Nation and other Tribes are difficult and the causes are varied. Federal funds are an important factor in resolving these issues and in assisting Tribes in applying innovative solutions to these centuries' old problems.

### **Increased Federal Funds Needed To Support Critical Reservation Infrastructure**

The Fort Berthold Indian Reservation requires a significant increase in the federal funds to support critical infrastructure. In the next decade the Tribe estimates that we will need more than 3.6 Billion to maintain our physical infrastructure, develop additional infrastructure, and keep up with growth on the Reservation. The MHA Nation is in the middle of the Bakken Formation which is one of the most active and productive oil and gas formations in the United States. Energy development brought new economic opportunities to our Reservation, but it is also overwhelming our transportation infrastructure, straining our law enforcement capabilities, and forcing substantial investments in community infrastructure. Much of the infrastructure and services discussed today are federal responsibilities. To meet the federal trust responsibility and honor the treaties signed with the MHA Nation this subcommittee must substantially increase funding for critical infrastructure and services of the Tribe.

The strain on our existing infrastructure and resources is twofold. The development of our natural resources is both labor and equipment intensive. The Tribe has seen an explosion in population and heavy equipment traffic. The increased population and the increased heavy

equipment traffic places a great strain on existing structure and necessitates new and expanded infrastructure. The funding currently provided places the Tribe in a difficult situation. The Tribe lacks the ability to both maintain its existing infrastructure and provide new infrastructure necessary to support a growing residential, commercial, and industrial population.

Road construction and maintenance of existing roads is a vital part of providing safe communities and supporting economic growth. This year alone the Tribe will require 1.6 Billion for road construction and maintenance. The traffic created by the oil and gas industries place a heavy strain on our existing roads. The maintenance of our existing roads will require 685 million. In order to reduce the strain on existing roads and to make travel safer within the Reservation new roads must be built. The current plan of the MHA Nation for road construction requires 825 million. These roads will spread out oil and gas traffic and provide them more efficient routes. Our current roads are heavily congested due to a lack of available routes. As a result, the roads within the Reservation can be dangerous.

The population explosion has greatly strained our ability to provide law enforcement services. To create and provide effective law enforcement services requires additional funding to both the Tribe and the Office of Justice Services for the Bureau of Indian Affairs. Without a dynamic increase both the Office of Justice Services and the Tribe will continue to fall behind in providing law enforcement services to the residents of the Reservation.

Our law enforcement officers handle over 14,000 calls each year. However, this number rises exponentially each year and a larger strain is placed on our dwindling resources. A minimum of \$100 million for the Tribe alone is necessary to keep up with our growing population. The Tribe's law enforcement departments are understaffed and in dire need of expansion. The population growth has brought with it unsavory characters and an increased drug trade. To combat the drug trade the Tribe has established its own Drug Enforcement Agency. However, to continue to effectively combat the drug trade while providing standard law enforcement services the Tribe must see an increase in funding beyond what it has previously received. That funding will be put toward new law enforcement officers, necessary equipment and training, and expanding our law enforcement infrastructure.

To help reduce the long-term costs of law enforcement funding for drug treatment is a necessity. The Tribe has constructed its own drug treatment facility. However, it requires operational funds to provide counselors, equipment, and other staff. Approximately 5.25 million would fund the drug treatment center and allow the Tribe to focus existing funds on other law enforcement priorities.

The Office of Justice Services is an important law enforcement partner for the Tribe in investigating federal crimes, assisting in law enforcement procedures, and providing training to our law enforcement officers. OJS has been severely underfunded and its lack of funding is felt on the Reservation. Over the past year the Tribe has either been without an OJS investigator or has been provided an undertrained and poorly supervised investigator. The lack of a proper OJS investigator has resulted in crimes going unpunished, criminals avoiding prosecution, and a general loss of confidence in tribal law enforcement services. The OJS is divided into districts and our Reservation is located in District I. While an increase in funding for all of the OJS is necessary

a large increase for District I would serve the people of our Reservation effectively. Putting funds directly into the hands of District I would allow for better training of our officers, the employment of a proper OJS investigator, and the hiring of additional OJS staff to support our officers.

The growing population of the Reservation must also be housed and the Tribe struggles to meet the ever-expanding housing needs. 1.17 billion will be required between now and 2030 for the construction of new homes and replacement of existing housing stock. New housing will require approximately 76 million to develop and construct rural water infrastructure. Homelessness and overcrowding are significant issues on the Reservation. Studies have shown that children who have stable housing perform better in all aspects of school and personal development. An investment in housing by this subcommittee will see significant returns on investment in the near and long term future. Stable housing helps reduce crime and illiteracy while increasing the economic outlook for individual residents.

Finally, as the Federal government continues to allow the Tribe to take on more regulatory authority within our borders, we require more funds to competently execute those responsibilities. The MHA Nation is proud to take on these new responsibilities as part of our commitment to sovereignty. However, federal proposals placing more responsibilities on the Tribe often lack the funds necessary to allow the Tribe to hire and train staff. In order to oversee just the oil and gas development on the Reservation we will require 20 million this year and anticipate needing 234 million over the next 10 years. These funds will be put toward the hiring and training of staff along with supporting existing regulatory offices.

### **State Dual Taxation Harms And Decreases Tribal Budgets**

If this body were looking for a way to instantly increase the budgets of Tribe and make more effective the federal dollars provided it should look at the issue of double taxation. State taxation of Reservation resources serves to lessen the impact of federal dollars and drains the coffers of the Tribe. Addressing this issue is a sure-fire way to make a massive impact not just for the MHA Nation but for Tribes across the nation.

Under current federal law the State of North Dakota is allowed to place a tax on the development of energy resources within the Fort Berthold Reservation. The Tribe imposes its own set of taxes on energy development as well. Dual taxation is the death knell for economic growth and as a result the Tribe entered into a taxation agreement with the State of North Dakota regarding energy development taxation. Similarly structured agreements in the past have taken more than 1 billion dollars off the Reservation. As the Tribe is forced to ask for more federal dollars the State of North Dakota maintains a 4-billion-dollar rainy day fund due in large part to the oil and gas taxes taken from the Tribe.

The money that leaves the Reservation could be spent on roads, homes, law enforcement, and other critical infrastructure or services. Amending the Indian mineral leasing laws to make clear Congress' intent that tribes retain the full value of their energy resources would stop dual taxation. Without such an amendment the federal dollars necessary to support demands on tribal infrastructure will continue to grow.

Simple solutions to increase tribal budgets are rare. However, amending the laws regarding Indian minerals would see an increase to tribal budgets immediately and without the federal government having to expend its own funds. Allowing Tribe's to realize the full benefits of their natural resources supports tribal economies and recognizes the sovereignty of the Indian tribes.

**Indian Health Service Funding Must Go Beyond Inflation And Instead Funding Actual Need**

The health of citizens is a high priority for all governments but especially for the MHA Nation. A healthy citizenry places less burdens on the tax revenues and budgets of a government. To meet this goal the MHA Nation operates four field clinics and one large primary health facility called the Elbowoods Memorial Health Center. The Tribe also operates a dental facility along with a diabetes wellness center.

The facilities of the Tribe continue to be chronically underfunded. Funding, as you well know, is based upon estimates of the Office of Management and Budget. OMB has incorrectly assumed that historic funding levels were adequate. Those funding levels were inadequate and as a result Tribes have continued to fall further and further behind in funding. The small increase in funding each year barely cover inflation and certainly do nothing to solve the long-term chronic underfunding.

The Fort Berthold Reservation is geographically remote. For many members they lack either the time or resources to seek off Reservation health services. For this reason, the services provided on the Reservation can be the difference between life and death. If the trend of stagnate funding continues it will be the residents of the Reservation who will suffer.

Rising health care costs, both for individual citizens and for the tribal government, represent a real and ongoing threat to the health of the MHA Nation. Part of combatting the rising cost of health care is a focus on preventative medicine. TO that end, this subcommittee should increase funding for programs which provide low or no cost preventative healthcare.

As a result of chronic underfunding the Tribe is forced to divert funds from other projects, priorities, and budgets to simply maintain basic health services. These diversions only exacerbate the problems I have presented to you earlier. The Tribe should not be forced to choose between the health of citizens and maintaining its existing infrastructure. In effect, the Tribe is forced to choose between the health of its citizens and the long-term safety of its citizen. Real and substantial increases in funding based on realistic need is necessary. Without such changes the Tribe will continue to fall behind and be forced to make impossible choices.

Thank you for your consideration. We recognize that this Subcommittee is pulled in many different directions and are faced with a multitude of issues. However, this Subcommittee can see a substantial return on its investment by increasing funding to Tribes. The needs of the Tribe are basic, and each dollar spent will have an outsized impact on tribal populations. Providing for expanded roads, law enforcement, and health services will not only make the Reservation a safer place to live it will significantly reduce the need for future federal dollars.