

Written Testimony of Robert Black Jr.
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Navajo Nation

Submitted to the

United States House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies

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Requests:

- 1. Continue to provide necessary funding to fulfill basic infrastructure promises to Relocation Communities through a Multi-Agency Approach.**
- 2. Ensure the Survival of the Padres Mesa Ranch.**
- 3. Provide \$20 million for critical needs in the Former Bennett Freeze Area.**
- 4. Provide funding for a complete and thorough Audit of ONHIR.**

Introduction. Chairwoman McCollum, Ranking Member Joyce, Members of the Subcommittee, thank you for this opportunity to submit written testimony on behalf of the Navajo-Hopi Land Commission Office (NHLCO) of the Navajo Nation. The NHLCO, working in concert with the Navajo Hopi Land Commission of the Navajo Nation Council, is entrusted with addressing the ongoing effects of the Federal relocation of 16,000 Navajo people off their ancestral lands and the realities of the 12,000 Navajo citizens living in the former Bennett Freeze area.

We thank this Subcommittee for its steadfast commitment to bringing a humane end to the tragedy of Navajo relocation. We are deeply appreciative of the Subcommittee's 2015 visit to the Navajo Nation to witness firsthand the effects of relocation and the increased funding that the Subcommittee subsequently provided, which has accelerated the process whereby the Office of Navajo Hopi Indian Relocation (ONHIR) provides homes to Navajo relocatees. In addition, we thank this Subcommittee for hosting a roundtable last June to discuss the remaining obligations of ONHIR.

More than any other party involved in this long and painful chapter of American history, the Navajo Nation would like to see the humane closure of Relocation. However, the Nation cannot support closure without a plan that lives up to the promises that were made to the Nation and most importantly to the families who relocated and lost so much. While we understand the desire to end this failed policy, the lack of consultation, communication, and basic planning is deeply worrying. We appeal to this Subcommittee to ensure that the United States Government upholds its trust responsibility to the relocatee families and ensure that there is no closure until all promises are kept and a fair and equitable closure plan is in place.

Proposed Closure without Consultation. Just one year ago the Federal government appeared poised to close down parts of ONHIR without any consultation with the Nation. Specifically, the Administration planned to transfer ONHIR's land management responsibilities to the Office of

Special Trustee (OST), which would in turn delegate land management to the Bureau of Indian Affairs (BIA). The Nation expressed serious concerns regarding OST's capacity to properly fulfill ONHIR's land management responsibilities. In addition, it appeared that after our Congressional Roundtable in June of last year the Department of the Interior was initiating planning to close ONHIR. The Navajo Nation was appreciative that the Subcommittee informed us that no changes would occur to ONHIR until a plan was developed. We urge the Subcommittee to continue to push for an adequate and proper plan to be developed before any changes are made that have the potential to negatively impact relocated families and others still in the eligibility process.

Multi-Agency Effort to Address Infrastructure. We appreciate that the Subcommittee agreed that the original Settlement Act promised infrastructure for relocatees. Given the history of forced Navajo relocation, going back to the Long Walk and internment at Bosque Redondo, we are sure that you can appreciate that the federal commitment to minimize the impact of relocation and to provide for necessary infrastructure were critical inducements for thousands of Navajos to relocate. Unlike the general infrastructure needs of the Navajo Nation and other Indian Nations, the specific infrastructure needs for Navajo relocatees were compounded by the federal government's own relocation of Navajo families.

As the Nation has previously noted, during deliberations on the Settlement Act, the Senate Committee on Interior and Insular Affairs set forth guiding principles for the relocation program. Of particular importance were principles 9 and 11:

9. That any such division of the lands of the joint use area *must be undertaken in conjunction with a thorough and generous relocation program to minimize the adverse social, economic, and cultural impacts of relocation on affected tribal members* and to avoid any repetition of the unfortunate results of a number of early, official Indian relocation efforts;

...

11. That because of the Federal Government's repeated failure to resolve the land disputes, *the major costs of resolution should be properly borne by the United States.*¹

With these principles in mind, Congress in the Settlement Act ordered the preparation and submission of a relocation report and plan. That plan must, among other things:

(2) take into account the adverse social, economic, cultural, and other impact of relocation on persons involved in such relocation and be developed to avoid or minimize, to the extent possible, such impacts;

...

(4) assure that housing *and related community facilities and services*, such as water, sewers, roads, schools, and health facilities, for such household shall be available at their relocation sites; and

¹ See Senate Comm. on Interior and Insular Affairs, Report on Resolution of Navajo-Hopi Land Dispute, S. Rep. No. 93-1177, at 19-20 (1974) (emphasis added).

(5) take effect thirty days after the date of submission to Congress²

Not surprisingly, the relocation plan submitted to Congress specifically highlighted these key federal commitments. Unfortunately, the United States later attempted to ignore these commitments despite the prior statutory and plan mandates and the related inducements to thousands of Navajos. However, out of the recent roundtable has come an important option to revisit an insufficiently used relocation power.

The Navajo and Hopi Indian Relocation Amendments of 1988 authorized ONHIR to call upon any department or agency of the United States to assist in carrying out the relocation plan.³ That Act further provides that, if any agency fails to provide reasonable assistance, ONHIR shall report such failure to the Congress.⁴ In the Commission's 1983 Report and Plan Update, the agency stated that it was still unable to make finite plans because of the non-availability of land selections. But, it also stated its intention to "[i]nitiate coordination efforts *to establish joint governmental agency involvement* for future relocation to deal with such areas as employment, roads, utilities, and like areas of need."⁵ We therefore urge this Subcommittee to include language in the appropriations report supporting this multi-agency approach. Such language is important to ensure that the relevant federal commitments are not forgotten after closure of ONHIR. Many federal agencies can be helpful and should be involved in the development of a transition plan.

There also are potentially many more federal agencies that can and should play a role and be involved in transition planning. We understand that the planning and development of additional infrastructure may take a number of years. However, we strongly believe that because of the federal promises that induced Navajo families to relocate, to their detriment, priority or dedicated funding is needed to address relocatee needs and funding for ONHIR should remain at current levels to slowly work on infrastructure needs.

Padres Mesa Demonstration Ranch. Perhaps the only thing all parties agree upon about the large-scale relocation of Navajo families is that Padres Mesa Demonstration Ranch has been a success. Padres Mesa has sparked hope within the Nation by teaching many relocatees the benefits of cattle management, range management, and beef cattle marketing to produce a brand known as "Navajo Beef," which is recognized for its quality and generates nearly twice the economic return as the families previously realized. Padres Mesa has the potential to create a much-improved agricultural economy across the Navajo Nation, as well. We ask this Subcommittee to continue to support and fully fund the Padres Mesa Demonstration Ranch.

The Former Bennett Freeze Area. In 1966, Commissioner of Indian Affairs Robert Bennett imposed a development freeze that lasted for 40 years, devastating a 1.6-million acre area encompassing nine Navajo Chapter communities. Going back to the "War on Poverty" and the

² Pub. L. 93-531, §§ 13(c)(2), (4), (5), 88 Stat. 1712, 1718 (1974) (emphasis added).

³ Pub. L. 100-666, § 4(a), 102 Stat. 3929, 3930 (1988) (formerly codified as 25 USC 640d-11(e)(1)).

⁴ *Id.* (formerly codified as 25 USC 640d-11(e)(2)).

⁵ Navajo and Hopi Indian Relocation Comm'n, Report & Plan Update 31-36 (1983) (emphasis added).

"Great Society Program" and continuing through numerous Federal economic and anti-poverty initiatives, as well as programs directed at Indians in particular, this area was ineligible for aid. For the Former Bennett Freeze Area (FBFA) to recover and redevelop, there must be a sustained reconstruction program. Critical needs include housing, safe drinking water, electricity, timely emergency response services, telecommunications infrastructure, and community facilities. We request the Subcommittee allocate \$20 million to the FBFA out of the BIA Trust Natural Resources Account (Natural Resources Subactivity).

Interior's Audit. The Nation fully supports the need for an independent and adequate audit of ONHIR. The Nation has long believed that ONHIR has not adequately shared information regarding its operations. We need a clear picture of what ONHIR has done and is doing before it can close. To that end, we support the preparation of a further audit in follow up to the recently issued report on ONHIR by the Government Accountability Office (GAO). In addition, the Navajo Nation strongly encourages that any audit that is done include assessments of relocation houses and relocatee facilities that ONHIR has built. The Nation and ONHIR have long disagreed over the workmanship of those houses and facilities. We believe that the best way to resolve those issues is with an independent audit to ensure that the relocatees who received shoddy houses and facilities can have them repaired.

Conclusion. The relocation of thousands of Navajo families off their ancestral lands is one of the greatest tragedies in modern United States history. The Navajo Nation understands that ONHIR has remained open far longer than the Federal government originally expected, but that is not the fault of the Nation nor of the relocatee families, who have still not received the full benefit of the promises that were made to induce them to leave their lands. The Navajo Nation is deeply appreciative of the support and compassion of the Subcommittee and we request that this Subcommittee continue to work and advocate for the United States to honor its commitments.