

Testimony of Spirit Lake Tribe re: Voting Rights and Election Administration in the Dakotas

April 16, 2019

Chairman Fudge and Ranking Member Davis, thank you for having me here today. I am Myra Pearson, Chairwoman for the Spirit Lake Tribe.

The Spirit Lake Tribe is a federally recognized tribe located in the state of North Dakota, with an enrolled membership of 7,547 members as of February 13, 2019. There are approximately 3,659 members currently living on the reservation land situated within North Dakota, and about 108 members live within 20 miles of the reservation. Approximately 2,146 of Spirit Lake members living on the reservation are 18 years or older. Adjacent to the reservation there are approximately 66 members who are 18 years or older.

These past few years, our members have been deeply affected by North Dakota's voter ID law. We do not believe that voter ID is necessary. We are a small community that know each other. Fraud has never been a problem in our communities. Instead, the Voter ID requirement imposes unfair burdens on our members.

Many of our members struggle with housing instability, unemployment, and poverty. In 2015, a survey of 285 people living on the Spirit Lake Reservation indicated that 38 percent of people have an individual income of under \$5,000, and 73 percent have an income of under \$20,000 a year.¹ 47.8 percent of the residents live below the poverty line, as compared to the national average of 13.8 percent.² 41 percent reported that they had been homeless at some point in their lives.³ The Cankdeska Cikana Community College estimated in September 2014 that there are around 300 homeless people residing on or around the reservation, but also noted that estimate might be conservative due to many members not signing up for housing assistance.⁴

Given these realities, and the fact that many parts of the reservation have not been thoroughly addressed, many members do not have ID since they do not need one to live their lives and they cost money. If the members have IDs at all, they hold tribal IDs that list their address as a P.O. Box if they have one. There are many streets on the reservation that are not labeled, and there are many houses which lack numbers. And even if the county 911 coordinator has assigned a residential address to someone's home, many are never notified of this address. Mail services do not extend to certain parts of the reservation. For example, in Fort Totten all residents receive their mail through a P.O. Box. There is no U.S. Postal Service delivery to residents in this area so they must rely on a P.O. Box to conduct their affairs.

¹ CANKDESKA CIKANA COMMUNITY COLLEGE, SPIRIT LAKE NATION COMPREHENSIVE COMMUNITY ASSESSMENT 1 (2015).

² *Id.* at 1.5. The family poverty rate is 41.3 percent. First Am. Compl. at ¶ 18.

³ CANKDESKA CIKANA COMMUNITY COLLEGE, SPIRIT LAKE NATION COMPREHENSIVE COMMUNITY ASSESSMENT 3 (2015).

⁴ *Id.* at 1.26.

Spirit Lake became concerned that its members would not have the IDs required to comply with the current voter ID law and decided to expend its resources to help its members obtain acceptable IDs. In the weeks leading up to the November 2018 election, members and staff of the Spirit Lake tribal government spent several hours each day, working to address this serious issue for its members. In order to ensure that its members had valid IDs the Tribe chose to extend its hours at the Tribal Enrollment Office. Between October 22, 2018 and November 8, 2018 the enrollment office was open from 8:00AM until as late as 7:00PM, depending on need. Robin Smith, the Director of the Enrollment Department for the Spirit Lake Tribe, had to work through her lunch break on a regular basis in order to ensure that needs were met. Ms. Smith worked a total of 21.25 hours of overtime between this timeframe at a rate of \$37.50/hr., which cost the Tribe an additional \$796.88. During this time frame, the Tribe also waived the cost of the Tribal IDs for its members, which ordinarily would cost \$11. The ID fee would normally have gone toward covering the cost of issuing the ID, including supplies, equipment, ink and paying the staff.

In order to meet the needs of the members and the additional requests for IDs, the Tribe purchased a new printer for \$2,655.95 and \$1,105.78 worth of supplies such as ink and the cards themselves. The Tribe issued a total of 665 ID cards between October 22, 2018 and November 8, 2018. Normally the Tribe issues about 30 IDs per month. Due to the fee waiver, the Tribe lost \$7,315.00 in income during that time.

The amount of time spent to issue the new IDs was significant. If all goes well it takes five to seven minutes to locate a member in the system, make an ID and obtain the members signature. But if the individual does not have an address the staff must try to figure an address out or contact the 911 coordinator and significant time is added to the process. The Tribal Enrollment Office only has two staff members available to issue IDs, Ms. Smith and her coworker. In order to assist the Enrollment Office staff, employees from Tribal Administration came to work in the Enrollment Office.

There were several difficulties in issuing the IDs. For instance, if a person was homeless or relied on a P.O. Box number because they did not have a consistent address, the enrollment staff would have to find out where the individual stayed most recently and most often. Usually, the individual would give a relative or a friend's house. Enrollment staff would then have to look up the relative or friend and verify with that person that the individual had stayed there. In other instances, members would arrive and not know their physical address. In those circumstances, enrollment staff had to assist the member in determining their physical address. This process involves checking internal records about the physical addresses of other members that live at the same residence. If that did not determine an address, staff would then call the Benson County 911 coordinator to determine the address or have an address assigned.

The system for assigning addresses through the 911 coordinator is complicated and confusing. In very rural areas such as Woodlake or Crow Hill, the cities utilized are not consistent. For example, in the Woodlake district, some people consider their address to be in the city of Sheyenne, while others believe their address to be in the city of Tokio or Warwick. Therefore, Woodlake alone has three different cities used for addresses. In Crow Hill, half of the residents

use Fort Totten city for their physical address, and the other half use the city of Oberon. This confusion and lack of consistency makes it even more difficult to obtain an address for tribal members.

The Benson County 911 Coordinator gave Ms. Smith a website so she could make sure that the physical address given was registered as an official address. One evening Ms. Smith stayed with another volunteer and went through every ID to make sure the addresses given by the 911 Coordinator which were issued on IDs were correct on the website. Approximately 5-10% of the issued IDs, or about 30-60 addresses, were not listed on the website. For the individuals for whom the 911 coordinator had given addresses that did not appear on the website, Ms. Smith reprinted IDs and changed the incorrect address to the address listed on the website. Ms. Smith then reached out to the individuals, or their family members, if they happened to come back into the enrollment office and told the individual to come back in for an updated ID. Through this extraordinary effort, fortunately, all of the individuals with incorrect addresses received an updated ID.

One story shows how difficult it to get an accurate address. One member had to come in three times to get an address. He called the 911 coordinator multiple times and when he was finally issued an address it was one of the incorrect addresses issued by the 911 coordinator when compared to the website provided. Ms. Smith then had to chase him down to give him the corrected ID with an address that was listed on the website.

The Enrollment office predicts that many of the individuals who obtained a new ID will not be living at the same address by the next state or federal election. Tribal IDs also expires every 5 years. In November of 2021, all the IDs issued between October and November of 2018 will be to expire. The Tribal Enrollment Office is also faced with replacing IDs for other reasons, such as lost or stolen IDs.

Many members of the Spirit Lake Tribe are under the impression that North Dakota's Voter ID law was passed with heavy anti-Indian sentiments. And it would not be unprecedented for the State of North Dakota to take efforts to minimize the political power of Native Americans in North Dakota, and the Spirit Lake Tribe in particular. For example, a federal court had to enter a consent decree in 2000 because it found that Benson County was attempting to administer Benson County Commission elections in a way that was discriminatory toward tribal members.⁵ And in *Spirit Lake Tribe v. Benson County*, the federal court issued an injunction against the county because it wanted to switch to a mail-in ballot system and close polling locations on the Spirit Lake Reservation; the court found that this would have an unfair impact on the Spirit Lake tribe and its members given the rates of housing instability and the difficulties members would have in traveling to the one county polling location that they planned to keep open.⁶

The Spirit Lake Tribe remains concerned with the implications of North Dakota's voter ID law and has recently filed suit in the District Court of North Dakota to challenge its enforcement. The

⁵ See *Spirit Lake Tribe v. Benson County*, No. 2:10-cv-095, 2010 WL 4226614 at *3 (D.N.D. Oct. 21, 2010) (quoting *United States v. Benson County*, No. 2:00-cv-30 (D.N.D. 2000)).

⁶ See generally *id.*

Tribe does not have the resources to indefinitely provide adequate IDs to tribal members in order to vote in all future elections, and without these efforts many of our members risk being turned away at the polls or not even attempting to exercise their right to vote out of fear that they will be turned away. Thank you for investigating this issue and protecting Native American's right to vote.