

STATEMENT OF
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CHAIRMAN
LOWER BRULE SIOUX TRIBE
JUNE 1, 2007
HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES

WELCOME AND INTRODUCTION

On behalf of our Tribe, allow me to welcome the Committee on Natural Resources to Lower Brule. We greatly appreciate your visiting the Reservation for this hearing in an attempt to improve the quality of life for our Members and all Indian people. I have been Chairman for 28 years and served on the Council for seven years before being elected Chairman.

The Lower Brule Sioux Tribe a constituent band of the Great Sioux Nation with a proud history. We were a signatory of the Fort Laramie Treaty of 1851 and the Fort Sully Treaty of 1865.

TRIBAL LAW ENFORCEMENT

Law enforcement at Lower Brule has been a great concern for our Tribe. People must feel safe in their environment if they are to enjoy their surroundings and their family. In many

areas of the country, law enforcement is taken for granted. We do not think about law enforcement except when it is lacking. In fact, law enforcement is fundamental in order to develop human potential, to raise our families, to work and enjoy our private time.

The life experiences of those living in Indian country have been more violent, vulnerable and insecure than those living in the rest of America. According to a 2004 Department of Justice report, American Indians experienced violent crime at a rate twice the national average – by far the highest experienced by any racial group.¹ Moreover, this increased exposure to violence affects every member of the community. When measured in their respective demographic, all Indians – male, female and of every age group – are victims of violent crime at greater rates than the national average. Most disturbing is the experience of Indian youth who experience violence at rates “significantly greater” than their counterparts in the rest of the nation. We hope not to raise a generation that knows violence as a fact of life and brutality as a means of resolving conflict. To prevent this, the Indian community needs improved law enforcement.

So we do not lose sight of what the broad and often used term ‘law enforcement’ means, let us look at the array of services it covers: policing, detention, criminal investigation, tribal adjudication and officer training. These are the institutions of justice that a community takes for granted once they are in place – the bricks of the foundation upon which a trusting society is built – and without them in place, the transactions of everyday living break down.

¹ Bureau of Justice Statistics, 2004 <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic02.pdf>

The Director of the Bureau of Indian Affairs, Patrick Ragsdale, acknowledged the deficiency in Indian law enforcement before the Senate Indian Affairs Committee last month. He noted in his testimony that “[o]n many reservations there is no 24 hour police coverage,” and “often officers patrol alone” – which is a danger to the officer and inadequate to serving the law enforcement purpose. In addition, less than half of Indian Affairs funded law enforcement agencies in non-metropolitan communities were funded to the national average. Not only do the safety needs at Lower Brule require greater law enforcement efforts, but also fairness requires that they at least be funded in equal measure to the rest of the country.

At the moment, there is a major gap in law enforcement in Central South Dakota. We are not talking about an abstract policy; we have a lack of facilities. Our jail has been closed for approximately five years. The BIA has closed the Crow Creek jail. So, neither of us have a jail at this time. Prisoners must be transported a great distance to be lodged in a Tribal jail. This has a significant impact on law enforcement. If police must travel a great distance to a jail, it takes many hours and they are not here on the Reservation providing protection to the community.

The BIA was to have the jail opened and certified by October of 2006. The date was then moved to April 1, 2007. Today, however, the jail is still not opened even though we are paying utilities and other expenses. It costs Lower Brule approximately \$1,600 per day,

every day that the jail remains open, and neither Crow Creek nor Lower Brule has a facility that is convenient and available. As I said, there is a major gap in Central South Dakota and the BIA needs to do everything possible to close that gap.

LOWER BURLE AND CROW CREEK COMPENSATION ACT

Representative Herseth Sandlin, as you know, Law Enforcement is just one of the many infrastructure needs we are trying to improve at Lower Brule to strengthen our economy and the quality of life for all enrolled members of the Tribe.

Therefore, I would be remiss not to mention the great importance of your bill, H.R. 155, the Lower Brule and Crow Creek Compensation Act. This legislation is, of course, pending before the Committee on Natural Resources. I would like to include my Senate testimony in this hearing record, with your permission, and add a few points.

This legislation passed the Senate on three occasions in the 108th Congress and was again reported by the Senate Indian Affairs Committee in the 109th Congress. After the bill was reported in the 109th Congress there was a GAO report that resulted in two changes in the legislation and then the Senate Indian Affairs Committee again reported the bill:

- First, the amount of compensation was reduced. The GAO discovered an error in the compensation calculation and we therefore adjusted the legislation.

- Secondly, a new Section 5 was added to the bill to make it clear this legislation would be final compensation for damages caused by construction of the Big Bend Dam and Fort Randall Dam. Under the terms of the bill, if enacted, our Tribe is giving up any further claim growing out of the construction of the dams.

With these changes, we believe that the legislation is ready to move forward in both the House and the Senate.

We do appreciate that while the transfer of funds from the Treasury to the Lower Brule Trust Fund is an intra-federal government transfer there is a cost associated with the additional interest we would receive on the larger trust fund. In considering the this legislation and the “pay-go” rules, I would hope the Congress looks at this legislation in a larger context that is fair to Indian people. Allow me to explain.

1. The dams were built using our land. Our Reservation was flooded twice as a result of the Pick Sloan project and the construction of the Big Bend and Fort Randall dams. As a result of these dams, we lost our best bottomlands, and over 70% of our population had to be relocated, not once but twice.
2. The water that flows in the Missouri River is ours in that we have the legal right to use as much as we need for the Tribe under the Winters doctrine, *Winters v. United States*, 207 U.S. 564 (1908)
3. The dams are producing electricity to benefit America and the American economy.

4. The revenue from the sale of electricity produced by the dams on the Missouri River exceeds \$200 million per year.
5. The Tribes are receiving none of this revenue even though it is our land and our water that is being used to produce the electricity.
6. Adding insult to injury, the Tribes must pay for the electricity we use at Lower Brule. The Tribes of South Dakota paid over \$2 million for electricity in 2005, and rates continue to increase.

In short, while the American economy is benefiting from the dams built with our land and our water, the Tribal economy is suffering as a result. In my opinion, the Congress should consider these facts as they consider how to fairly apply “pay go” rules to HR 155. There is something very, very wrong with our bill being held up when the United States is profiting from our land and water. I urge you to bring these facts to the attention of the Committee and ask for consideration of the legislation.

Thank you very much for coming to Lower Brule. I would be pleased to answer any questions that you may have.