

**TESTIMONY OF DONOVAN GOMEZ,
TRIBAL PROGRAMS ADMINISTRATOR/SELF-GOVERNANCE COORDINATOR, PUEBLO OF TAOS
BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES
ON H.R. 4347, DOI TRIBAL SELF-GOVERNANCE ACT OF 2009**

**Wednesday, June 9, 2010
Room 1324 Longworth House Office Building
10:00 AM**

With your respect, Chairman Rahall, Ranking Member Hastings, and Members of the House Committee on Natural Resources, thank you for inviting the Pueblo of Taos to testify at this important hearing. My name is Donovan Gomez and I am the Tribal Programs Administrator and Self-Governance Coordinator for the Pueblo of Taos as well as a tribal member. On behalf of the Taos Pueblo Tribal Council, Governor James Lujan, Sr., and Warchief David G. Gomez, I am here to provide testimony in support of H.R. 4347, the Department of Interior Tribal Self-Governance Act of 2009.

The Pueblo of Taos is a traditional Pueblo community located in Taos County, New Mexico, 70 miles north of Santa Fe. Our population is 2,505 tribal members residing on a land base of 103,637.31 acres

The Pueblo supports this government-to-government forum and process for Tribes and the United States to make the necessary amendments that allow for the fulfillment of tribal self-determination, self-governance, sovereignty, and treaty rights, as well as sufficient levels of funding to address the needs of Tribes and their tribal citizens.

History

Taos Pueblo is known for our beautiful and prominent architecture, especially of our multi-storied adobe Pueblo. The North-Side House said to be one of the most photographed and painted buildings in the Western Hemisphere. It was designated a National Historic Landmark on October 9, 1960, and in 1992 became a World Heritage Site.

Governance

Taos Pueblo is also known for being one of the most guarded and conservative pueblos in our traditions and governance. Our governance is similar to that of other tribes and governments with our Council as the legislative branch, the Governor and Warchief's Offices as the executive branch, and the traditional courts located in each Office as the judicial branch. Our Tribal Council is composed of 56 Councilmen. We are traditional in governance and have always been self-governing. As such, the move toward Self-Governance was not unfamiliar as we have always governed ourselves.

Traditionalism

We do not have a constitution, we do not vote for our tribal leaders. Our tribal leadership is elected annually by our religious leaders and the Tribal Council. However, under Self-Governance, the Tribal Council has authorized a provision of determining community interests and needs in the reallocation of funds the self-governance process provides.

Taos Pueblo and Self-Governance

Taos Pueblo has been a Self-Governance Tribe since 2007, negotiating a compact and funding agreement with DOI in the same year and with the Indian Health Service in December 2009.

With the trust responsibility, Taos Pueblo received a commitment from the federal government to provide for the health, safety, and welfare of our people into the future. This federal trust responsibility has never been fully met as our people experience lower life expectancy rates, higher dropout rates, and higher poverty rates than any other racial or ethnic group in the country. The overall prosperity of Taos Pueblo is directly tied to the health and well-being of each tribal member

Taos Pueblo calls upon Congress to address these issues by passing H.R. 4347 Amendments to assist existing Self-Governance tribes and to encourage participation of new tribes:

- *To provide greater legal authority to tribes as they pursue the goal of transferring authority and responsibility from federal bureaucracy to tribal program administration;*
- *Much needed reform and parity in negotiations between tribal governments and the federal government;*
- *To provide much needed services to the community in the reallocation and design of programs functions services and activities or portions thereof;*
- *To set our own priorities and determine how program funds should be allocated;*
- *To insure the intent of congress reaches the tribes and tribal members.*

Taos Pueblo and PL 93-638

The Pueblo's role in self-governance precedes Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, through one of the most publicized land claims in tribal and federal history, the return of Blue Lake to the Taos Pueblo people in December 1970.

The land transfer was part of President Richard Nixon's reversal of harmful federal Native American policies to tribal self-determination policies; most prominent of his actions was the return of Blue Lake to the Taos Pueblo.

Our self-determination efforts began in earnest in 1906 when President Theodore Roosevelt appropriated 48,000 acres of Taos Pueblo land toward the creation of the Carson National Forest. The Pueblo waived their right to the town of Taos and surrounding areas, asking only for the return of our sacred Blue Lake. The U.S. Forest Service cut roads into the area, made it available to campers and tourists, built cabins and corrals, allowed fishing in the sacred lake

itself, allowed grazing of herd animals into the area, allowed clear cutting of some 2,000 acres of timber, and threatened to mine the area immediately adjoining Blue Lake.

On December 15, 1970, Bill HR 471 was signed by President Nixon into law and Taos Pueblo got back 48,000 acres of our sacred space including Blue Lake.

This year Taos Pueblo is celebrating the 40th anniversary of the return of Blue Lake to the Taos Pueblo people and the bill that clearly indicated federal interest in Native American issues and the starting point for launching a new federal Indian policy of self-determination.

Taos Pueblo has been a Title I tribe since the beginning of this new policy and has now begun our transition to self-governance. Among the Pueblos, we are known for taking action rather than a wait and see stance. Thus, we are only the second tribe in the Southwest Region, BIA to execute a self-governance compact in 2006. We were the first tribe in the Albuquerque Area Office to enter an IHS self-governance compact in 2009. And we are very proud to have played a historic role in the formation of Public Law 93-638.

H.R. 4347 Will Aid Self-Governance Tribes

Having only recently gone through self-governance negotiations with BIA in 2006 and with IHS in 2008 – 2009, a grueling two year initial negotiation, the dissimilar rules which BIA and IHS follow are very apparent to us. The HR 4347 Amendments as proposed would greatly aid tribes wishing to enter Self-Governance and would facilitate our own future self-governance operations and negotiations by aligning BIA rules to the IHS rules adopted in 2000 and would clarify or revise some Title I provisions still applicable to both agencies.

For example, the criteria and process which govern agency decisions to decline a tribe's self-governance proposal are very different under Title IV and Title V. Title IV (at 25 U.S.C. § 458cc(l)) basically allows tribes to require the BIA to satisfy the Pub. L. 93-638 Title I declination criteria and burdens of proof and to use the Title I declination process as set out at 25 U.S.C. § 450f(a)(2). In contrast, Title V (at 25 U.S.C. §§ 458aaa-6 and 458aaa-17) established more stringent declination criteria and broader statutory declination burden of proof requirements and declination appeal processes applicable to IHS self-governance declinations. This was done a decade ago.

These statutory differences have also led to different regulations addressing these issues. 42 C.F.R. Part 137, subparts H and P (Title V declinations and appeals); 25 C.F.R. Part 900, subparts E and L (Title I declinations and appeals); 25 C.F.R. § 1000.179 and subpart R (Title IV declinations and appeals). All of those regulations are different. It's very burdensome to deal with so many different regulations which could be streamlined into one set to apply to all self-governance declinations.

§ 407(c) of H.R. 4347 would require the Interior Department to follow the same stringent declination rules as IHS. That would give the tribes only one uniform set of rules and appeal standards for resolving declination disputes regarding our self-governance initiatives. The new

Title IV regulations called for in § 415 of H.R. 4347 would have to conform to that statute which would require that the Title V and Title IV regulations governing declinations and appeals (and on the many other issues where there are presently differences) to essentially be the same. § 415 of the Bill also causes the immediate repeal of the existing Title IV provisions.

All of this would be a great improvement as dealing with different statutes unnecessarily increases our legal operational costs in moving forward with self-governance and adds a layer of confusion that advances no one's interests.

Thus, Taos Pueblo strongly supports H.R. 4347.

Recommendations to Other Tribes in Area

The Pueblo wholeheartedly supports tribal self-governance and H.R. 4347 as proposed in that its provisions would greatly assist our future self-governance operations and negotiations and will help other tribes, especially the Pueblos as they move to negotiate self-governance agreements with the United States.

We will continue to focus on our traditionalism and how we have begun to use Self-Governance to support it rather than to bury it. With good graces, the Committee will see that the Title IV amendments will not only aid self-governance tribes but aid the entrance of the Pueblos into Self-Governance; the participation of the Pueblos will certainly give the Self-Governance movement new colors, strength and spirituality.

Thank you.