

Testimony of The Honorable John Yellow Bird Steele
President of the Oglala Sioux Tribe
Before the U.S. House of Representatives Committee on Appropriations,
Subcommittee on Interior, Environment, and Related Agencies, March 27, 2012

Thank you, Mr. Chairman and fellow Committee Members, for coming to our Pine Ridge Reservation last year to see the conditions firsthand. We appreciate your visit.

Our Reservation covers approximately 2.7 million acres and our Tribe has more than 45,000 enrolled tribal members. We are one of the 16 sovereign nations of the Great Plains Region. The tribes in this Region have the largest geographical land base of all regions and together have a population of more than 189,000 Indian people. Extreme poverty and high unemployment are rampant throughout our Region. It is reflected on our Reservation. The 2010 Census shows Shannon County (within our Reservation) as the third poorest county in the *entire* country.

Housing, health care, education, public safety, infrastructure, and economic development are all impacted by poverty on our Reservation. Time and again, BIA and IHS budgets have fallen short to meet our many needs. Until the United States honors its treaty obligations and provides adequate base, non-competitive, funding, progress on our Reservation will continue to be elusive. We strive to improve our members' lives, but we cannot do that without infrastructure, safe housing, quality education, proper healthcare, and economic development.

Our rights, Congress's obligations to us and our unique political relationship are set forth in a series of treaties from 1825 through 1868. Significantly, the Sioux Treaty of 1868 provided for a *quid pro quo*: by the terms of the Treaty, the United States promised to provide certain benefits and annuities to the Sioux bands each year. The United States discontinued negotiating treaties with tribes in 1871 by statute, yet that statute provides that "no obligation of any treaty lawfully made and ratified with any such Indian nation or tribe prior to March 3, 1871 shall be hereby invalidated or impaired." Our 1868 treaty is still in full force and effect. The appropriations we request are not discretionary; they are the fulfillment of the United States' legal and moral obligations.¹ We call upon the Congress to fund BIA and IHS at levels that reflect our true need.

Bureau of Indian Affairs (BIA) Issues:

Process - We oppose ranking and prioritizing programs in Indian Country. All the programs are of utmost importance. BIA programs are being decreased or eliminated based on the assumption that other federal agencies are fulfilling responsibilities to Tribes and Indian people. Also, tribes currently must apply for competitive grants from most agencies to try to make ends meet. Grants carry a number of drawbacks, however. They are often short term, they must be tailored to the grant's criteria not necessarily the tribes' needs, they have additional reporting requirements, and we often must wait until late in the fiscal year to learn if they have been awarded. Gains are difficult to sustain once grant funding has ended.

Most Great Plains tribes must apply for competitive grants to fund between 1/3 and 1/2 of their most basic tribal law enforcement and tribal court budgets. BIA previously funded all of these. We want funding streams consolidated, reporting requirements simplified, and federal agencies

¹ Please refer to my testimony submitted at last year's hearing for more details on our treaties.

to return funding and decision-making authority to the regional and reservation level.

Tribal Priority Programs - Tribal Priority Allocations (TPA) funding, base and non-base, agency or tribal, must be excluded from all reductions or any proposed freezes. The FY 2012 Administrative Savings Reduction, when applied to Agency TPA Programs, unfairly and disproportionately impacted Direct Service, Large Land Based Tribes.

Road Maintenance - Road Maintenance funding is necessary to maintain reservation roads and bridges in a safe and efficient manner. The *final* 2012 Great Plains Road Maintenance program is funded at \$200,000 less than 2011. We estimate that our Region is funded at less than 15% of what is needed to provide required road and bridge maintenance. Our Tribe actually is at risk of running out of this funding by June. Increases are required.

Welfare Assistance – General Assistance, Child Assistance, the Indigent Burial Program and Emergency Assistance are all very important to our Tribe. These programs benefit many, but they must be funded at higher levels to achieve greater impacts.

Home Improvement Program (HIP) - Increase the Federal Income Poverty guideline eligibility from 125% to 225%. HIP is very important to us as many of our houses are dilapidated and have black mold, creating serious health issues. Federal funding is far below the actual need, and we request considerable increases for this significant program.

Johnson O'Malley Program (JOM) grants - These grants are the cornerstone for meeting the unique and specialized education needs of Indian students enrolled in public or non-sectarian schools. The purpose of JOM meets the focused goal of academic achievement by providing Indian students with supplemental educational programs or support so they can pursue educational opportunities and attain academic success.

Law Enforcement - We need stable, adequate federal funding for tribal justice systems and law enforcement. We were pleased with the passage of the Tribal Law and Order Act. However, there is still a lack of federal funding for basic Reservation law enforcement and court services. We need additional funding for more police officers, adequate equipment and vehicles, emergency response teams, and training, and request 100% operation and maintenance funding for correctional facilities.

Economic Development - A special category/consideration is needed for Large and Needy Tribes. Large and Needy Tribes that suffer from severe economic hardships and great challenges to economic development and lack the financial resources and infrastructure to ignite their economies should be targeted for services. The Indian Guaranteed Loan Program must be restored to full funding of at least \$3 Million, and labor force and statistics should be reported annually to assist tribes in obtaining formula based funding.

Preserving Rights vis-à-vis Cobell Litigation Waiver- The Cobell litigation waiver provision causes great concern. Language, such as the following, is needed to clarify its effect: “Nothing in the [Cobell litigation] settlement shall waive any Indian tribe’s right to self-government, tribal government rights under treaty or agreement, special trust relationship with

the United States, property rights or land rights, or the rights of any individual Indian class member, which are unrelated to the claims made in the litigation. Nothing in said settlement shall affect the political relationship between an Indian tribe and its tribal citizens or members.”

Indian Health Service (IHS) Issues:

Overview. The Tribe’s health care services are to benefit its 45,000+ eligible tribal membership and a 20,000+ user population. To that purpose, and as a “direct IHS service” operated system, there exist one hospital (at Pine Ridge), two health centers (at Kyle and Wanblee) and three health stations (Allen, Manderson, and Porcupine) on tribal lands. While our hospital is designed as a full-service one, the reality is that we are chronically under-staffed.

It is difficult to itemize our health care needs and issues, and to provide a priority list of health care services, when our community needs are in all inpatient and outpatient care. We also envision our community being able to provide more preventive care. However, I will try to identify some of our most seriously endangered patient services.

Budget Growth. The IHS’s FY2013total budget request, of \$4.422B, carries proposed increases to encompass some (not all) of the expected population growth and medical inflation increases needed to maintain many current program level of services. Unfortunately, the “current level” of services still only funds our Tribal community health needs at less than 55% of “health care need”. This year’s request builds upon the FY 2012 IHS enacted total amount off \$4.31 billion and which amount was a 6% increase from FY 2011 enacted levels

We are grateful to the Appropriations Committees for their support of these increases. The US’s assistance is, though, based upon Constitutional and other legal mandate for the benefit of federally-recognized Tribes and their citizen members. Yet our federal Indian health program still lags behind other direct federal health care delivery systems (e.g. VA, Federal Prisons), with an IHS spending of \$2741 per Indian patient, compared to the US average of \$7239 per patient [“IHS Year 2012 Profile”, <http://www.ihs.gov/PublicAffairs/IHSBrochure/Profile.asp>].

Hold Harmless. During national budget deliberations, there are often decisions made to secure federal savings by either (1) budget freezes, (2) sequestrations, or (3) across-the-board spending reductions. We ask that your committee support a provision to hold our Indian health programs harmless from such cutbacks, especially given how vital these programs are, and the under-funding we currently experience.

Budget Level Recommendation. We ask that you fund the IHS at levels that will help us achieve our stated Tribal and Legislative goals of *100% of Need*. We understand that this task is not one that can be achieved overnight, but your support for a 10-15% increase (\$440M to \$660M) over the budget request would go a long way towards achieving this objective. We are in need of these amounts to not only maintain current services to our tribal members, but to also fulfill the promises of the recently enacted Indian Health Care Improvement act amendments.

Contract Health Services (CHS). Our Tribe and IHS service unit are still experiencing severe funding shortfalls in this category. This is due to several factors:

- Insufficient facility physicians and other staff, which defers patient treatment until a life-threatening event;
- Delayed services resulting in Life threatening events that are more costly;
- Prior year payments that consume current year funding, resulting in continued funding shortfalls that mean we never get ahead (e.g. Bennett County Hospital)
- A national Program Funding Formula that favors “compacting/contracting regions”.

The latter item is of serious concern. An IHS workgroup devised a formula that now permits those Areas without an inpatient facility to receive additional, off-the-top funding from a 20% pool, and in addition to receiving an Area Allocation from the remaining CHS amounts. We strenuously object to this formula, as we are being penalized for having an understaffed facility.

Health Manpower. We are grateful to see that the Health Resources and Services Administration (HRSA) and the IHS have entered into an agreement that will transfer more National Health Service Corp (NHSC) personnel to IHS sites. We ask that these doctors and other professionals be assigned to reservation postings, where the need is the greatest. We do not support the proposed IHS health manpower decrease contained in the IHS budget request and ask that there be a modest 4% increase to this program to keep the scholarship and service obligation pipeline intact.

Indian Health Care Improvement Initiatives. We ask that the appropriations committee support funding to implement:

1. *VA-IHS Partnership Initiative*, permitting an IHS facility to treat, and bill VA for, an eligible Indian veteran care (which would require the IHS to make the veteran’s co-payment in order to recover 80% cost of care); and
2. *Long –Term Care Initiative*, to establish a much needed-services for our elderly and disabled. We hope this program could include home-based care to help reduce patient travel for minor but necessary services (visiting nurse checkup, medications, physical therapy). Such a program would go a long ways towards ensuring an improved quality of life for some of our most vulnerable, as well as provide our communities with services that other regions and populations take for granted.

Sanitation, Facilities. This is a program area that is vital to maintaining the life of our structures and for improved public health conditions. We oppose the \$16M+ Sanitation decrease proposed in the IHS budget request and support the IHS requested amounts for the other facility programs (Construction @ \$81.4M, Maintenance and Improvement @ \$55.4M, Environmental Support @ \$204.3M)

IHS within Interior Account. There have been some discussions, by certain tribal organizations, that support the transfer of the IHS program and funding from the Interior budget and appropriations account, to the DHHS-Labor account. We oppose such an initiative, and as a violation of the Treaties which promised our Tribes federal aid (and programs) in exchange for land transfer and peace. See Tribal Self Governance for efforts to promote this initiative: http://www.tribalselfgov.org/NEWSGCE/subpages/all_priorities.asp