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RECEIVING THE VIEWS AND PRIORITIES OF INTERIOR SECRETARY KEN SALAZAR WITH REGARD TO MATTERS OF INDIAN AFFAIRS

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
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CONTENTS

	Page
Hearing held on February 12, 2009	1
Statement of Senator Barrasso	2
Statement of Senator Dorgan	1
Statement of Senator Johanns	18
Statement of Senator Johnson	4
Statement of Senator Murkowski	4
Statement of Senator Tester	4
Statement of Senator Udall	5
Prepared statement	5

WITNESSES

Salazar, Hon. Ken, Secretary of the Interior, U.S. Department of the Interior	6
Prepared statement	9

APPENDIX

Devers, Hon. Chris, Chairman, Pauma Band of Mission Indians; Chairman, Council of Energy Resource Tribes, prepared statement	23
Dorame, Hon. Charles, Chairman, Northern Pueblos Tributary Water Rights Association, prepared statement	26
Lewis, Tsosie, CEO, Navajo Agricultural Products Industry, prepared statement	28
Response to written questions submitted to Hon. Ken Salazar by:	
Hon. Byron L. Dorgan	30
Hon. Maria Cantwell	35
Hon. Tom Coburn, M.D.	34
Hon. John McCain	37
Hon. Jon Tester	38

RECEIVING THE VIEWS AND PRIORITIES OF INTERIOR SECRETARY KEN SALAZAR WITH REGARD TO MATTERS OF INDIAN AFFAIRS

THURSDAY, FEBRUARY 12, 2009

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room 628, Dirksen Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. We are going to call the hearing to order. This is a hearing of the Senate Indian Affairs Committee. We have other colleagues who will join us, but in the interest of the Interior secretary's time, we want to begin on time.

I am honored to welcome the Honorable Ken Salazar, who is the Secretary of the Department of the Interior. I understand from Mr. Secretary that this is his first formal appearance before the U.S. Senate since his confirmation on January 20th. I want to say, and I know I speak for my colleague, Senator Barrasso, that I was honored to vote affirmatively on the confirmation of Senator Salazar. I think he is going to be a great Secretary of the Interior.

In that job, he has the solemn responsibility of carrying out our Nation's treaty and trust obligations to federally-recognized Indian tribes. While the trust obligation is Government-wide, the Interior Department is the principal agency that is charged with meeting the Government's trust responsibilities to American Indians. The government-to-government relationship that exists between the United States and Indian tribes stems from some of the oldest documents that helped form this Union. Debates of the Continental Congress acknowledge the sovereign status of tribes. The debates contemplated trade and commerce agreements with tribal governments, and those discussions carried over into the formation of the Constitution for this Country.

The sovereign status of tribes is prominently acknowledged in the Constitutions' commerce clause. That clause recognizes that Congress "has the power to regulate commerce with foreign nations, among several states and with Indian tribes."

In our part of the Country, most tribes refer to the 1868 Treaty of Fort Laramie as the governing document for their relationship

with the United States. Fort Laramie was located in the Wyoming Territory, the State of our distinguished Vice Chairman. That treaty established reservations not only in Wyoming, but in North Dakota, South Dakota, Montana. And in that treaty, the United States made specific promises, explicit promises, to provide for public safety, education, health care and the general welfare of the reservation communities.

It is safe to say, I believe, that we have not met those responsibilities. Some of the highest unemployment in our Nation exists on reservations, including the reservations of the Northern Great Plains States. We have, I believe, a crisis in Indian health care, with 40 percent of the needs unmet. In any part of this Country, they call that health care rationing. And it should be front page headline news, because it is scandalous.

We have very significant challenges in Indian education and significant challenges in Indian housing issues. We need to do better as a country to meet our obligations. We have made promises, we have signed the line in treaty agreements, and we have trust responsibilities.

I have used the word shameful, that in three of the last four years, I believe, we have not even had an Assistant Secretary of Indian Affairs. That position has been vacant. That is not a good way to discharge our responsibilities.

That burden doesn't fall on the shoulders of Secretary Salazar. He has only been in this position for a couple of weeks. We call him before this Committee and appreciate very much his willingness to come before the Committee today to talk about the challenges and the obligations and talk about his stewardship as Secretary of the Interior and the opportunities he has to address some of these issues. We will be interested in talking to him about, I am sure, about education, health care, law enforcement, which I have not mentioned, and a good number of other issues.

I will especially be interested in talking to him about the Assistant Secretary position, because I think it is important we have good leadership and continuity. I thank Mr. Skibine for filling in as Acting while we have been waiting for this change and for the selection of a new Assistant Secretary as well.

Having said all that, Mr. Secretary, thank you so much for being here today. We appreciate the opportunity to hear your thoughts and to ask you some questions.

Let me call on the Vice Chairman, Senator Barrasso, for comments.

STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Thank you very much, Mr. Chairman.

Good morning, Mr. Secretary. I am delighted to have you here. I look forward to hearing from you on your views and priorities regarding Indian Affairs at the Department of Interior.

First of all, let me say how pleased I am to see that a fellow westerner, a former member of the Senate, is going to be heading up the Department of Interior. I want to congratulate you on this new position and note that not only has the Secretary been a colleague during my time in the senate, but really a true friend and

a friend of the people of Wyoming and to the west. I am very pleased that you are here.

It would be very difficult to find a better, more qualified person to take over the important work that is being carried out by the Department of Interior at this time. So I look forward to working with Secretary Salazar during this Congress, not only to address the many challenges that Indian Country is facing, and there are many, some old, some new, but also to assist Indian Country in opening its doors to a thoughtful plan and sustainable economic development. I may be new at this job as Vice Chairman of the Committee on Indian Affairs, but regardless, I am a firm believer in the notion that a healthy, vibrant, educated community isn't possible without opportunities, opportunities for individuals to earn a good living, and without high levels of employment.

Mr. Chairman, as you and the Secretary are both well aware, the western United States is home to vast energy reserves, many of which are situated on tribal lands. We have talked about that before in this Committee. Development of our domestic energy resources is critical to our Country's energy security. It also happens to create good-paying jobs which in turn create robust local economies.

Indian lands have tremendous potential for energy development. Not all tribes have these mega-casinos. And this is especially true of the tribes in the inter-mountain west and the Great Plains. Some tribes in these areas have been blessed with mineral and energy resources which, if developed with care and with planning, could play a major role in turning around the local economies in reservation communities. As is certainly the case for the Wind River Reservation in my home State of Wyoming, and for other reservations as well.

For example, the Office of Indian Energy and Economic Development at the Department of Interior states that while Indian lands comprise only 5 percent of the total lands of the United States, they contain nearly 20 percent of the United States' energy reserves, with 15 million acres of undeveloped energy resources. These tribes need a Secretary who will help them realize the potential of their energy, mineral and other natural resources.

Another critical area that has been neglected for far too long is law and order on Indian lands. The Chairman and I had a chance to visit about that last week. The current law enforcement statistics in Indian Country are unacceptable. On the Wind River Reservation in Wyoming, there are usually no more than two full-time police officers on 24 hour duty for an area that is nearly the size of Connecticut.

Mr. Chairman, I am sure you would agree that non-Indian communities would not tolerate such a low level of protection. There is no reason that Indian communities should expect anything less than other communities in the way of law and order and public safety.

So I applaud the Chairman for your efforts in the 110th Congress to improve law enforcement and public safety in Indian Country, and look forward to working with you and with Secretary Salazar toward that end in the 111th Congress. So I want to thank you, Mr. Secretary, for your willingness to be here today, for your will-

ingness to serve and I am looking forward to hearing your views and recommendations on these and other issues.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Barrasso, thank you.

Mr. Secretary, I know you have served on many committees here in the Senate. Perhaps in some committees they have allowed long, ponderous and torturous opening statements by every member of the Committee so that we could have witnesses come and listen. And you have perhaps served on committees where there are no opening statements other than the Chairman and Ranking Member.

So let me ask my colleagues if they would have a one minute statement, so that we can get to the Secretary. Let me call on my colleague, Senator Johnson.

STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Thank you, Chairman Dorgan.

Secretary Salazar, welcome back to the Senate. You are a good friend, and I appreciate your coming here today.

Mr. Secretary, as we move forward with the new Administration, I would like to extend an invitation to you to visit South Dakota and see first-hand the many issues that face our reservations and Indian communities. As you know, five of the seven poorest counties in the U.S. are reservation counties in South Dakota. I look forward to working with you and again, want to thank you for your testimony today.

Thank you.

The CHAIRMAN. Thank you.

Senator Murkowski.

STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I don't need to hear myself talk, I am here to hear the Secretary speak this morning. I have made the invitation to you to join us in Alaska, so you can come and meet some of over 200 federally-recognized tribes in Alaska. I know that we will have an opportunity to educate you more on some of the particular challenges that we face up north, and I look forward to that opportunity.

But more importantly, more timely this morning, to hear your views and comments before the Committee. Thank you.

The CHAIRMAN. Senator Tester.

STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Mr. Chairman.

Secretary Salazar, it is good to have you here. I will tell you that it is a little odd to call you Secretary Salazar, so it is going to take me a second. If I slip a "Senator" in now and then, you will have to forgive me.

The challenges, well, let's put it this way. Where there are challenges, there is opportunity. There is a lot of opportunity in Indian Country right now, because the challenges are great. The list is

long, the Chairman and Ranking Member went over them. All I will say is that I have been somewhat critical of the bureaucracy that you are going to be overseeing. And I know that you will be able to get good people in good positions and hold them accountable for the jobs they do. We have responsibilities here that we need to take seriously, and I know you will. It is great to have you here, Secretary Salazar.

The CHAIRMAN. Senator Udall.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you, Mr. Chairman.

Secretary Salazar, great to have you here. You are a good friend. We served as Attorneys General and I know that you have taken an interest in all your public life and native issues. So I look forward to working with you on that.

Yesterday, the National Congress of American Indians president gave a speech on four areas of concern to native communities. I think he hit the nail on the head. He is a New Mexican, he is the head of our All-Indian Pueblo Council, a gentleman by the name of Joe Garcia. And he said first, we need economic development in Indian Country, and for the inclusion of Indian Country in the new Administration's economic recovery efforts.

Second, the need for reauthorization and improvement of the Indian Health Care Improvement Act. Third, high crime rates and a dilapidated system of prisons and jails need to be fixed. And fourth, a struggling education system with consistently low scores and crumbling schools. So you are a part of this new Administration and you are part of the new hope for Native Americans and all of us look forward to working with you closely to make sure that their dreams are fulfilled.

Thank you very much, Mr. Chairman. I hope to put the rest of my statement into the record, because I wanted to keep it to one minute, just like you asked.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Udall follows:]

PREPARED STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO

Secretary Salazar, I would like to begin by congratulating you on your confirmation to serve in President Obama's cabinet. I was pleased to support your nomination and look forward to working with you on so many of the issues of great importance to the states out west. Issues that you know well.

The economic difficulties that all Americans are now being confronted with at this time of economic downturn, are merely a glimpse into the stark reality that has been the modern history of the Native American Tribes.

My state of New Mexico is home to almost 200,000 members of 22 different tribes and pueblos, all of which are grappling with issues of safety, healthcare, education, environmental degradation, economic deprivation, and inadequate infrastructure.

These needs of New Mexico tribes are replicated across the nation. In his State of Tribal Nations address this week, NCAI President Joe Garcia highlighted four areas of concern for Native American communities across the country. These included:

- First, the need for economic development, and for the inclusion of Indian Country in the new administration's economic recovery efforts.
- Second, the need for reauthorization and improvement of the Indian Healthcare Improvement act.

- Third, high crime rates and a dilapidated system of prisons and jails in Indian Country.
- And fourth, a struggling education system with consistently low test scores and crumbling schools.

Secretary Salazar, you are part of the new administration and part of a new hope for Native Americans. There are many issues I look forward to working with you and the President on for Indian Country. Particular to my state are a number of tribal water settlements that are making their way through Congress. These settlements have been in ongoing negotiations for a long time and are finally nearing the finish line. Once we achieve that, which I am confident we will, it is imperative that funding be provided to implement these settlements.

Another issue of particular relevance to New Mexico is the awful and tragic legacy of uranium development in the Navajo and Hopi Nations. Over the last year, the Bureau of Indian Affairs and Indian Health Service have worked with me and my colleagues in the House to create a five-year plan that addresses this legacy. This public health and environmental disaster left a trail of contamination and sickness that must be addressed. I look forward to coordinating with you and the other agencies of oversight to move the five-year plan forward.

But as you well know, there are many issues that affect almost all tribes. As a U.S. Senator, you worked hard to address the issue of rampant methamphetamine use in Native American Communities. I applaud your efforts on this front, but as you no doubt are aware, we need to do more.

So too do we need to do more to address sexual assault. One in three Native American women will experience sexual assault in her life time. This is an atrocity. In the next year it is essential that Congress coordinate efforts with you at the Department of Interior to make paths for prevention and ensure proper resources are available to police forces, crisis centers, and hospitals.

Secretary Salazar, there are 526 federally-recognized tribes in this nation. These tribes are comprised of vibrant individuals and vibrant communities. You have the great opportunity to work with these communities. I look forward to working with you to ensure that the federal government is fully embraces its trust responsibility and confronts immediate crisis' as well as years of depredation in Indian Country.

Thank you.

The Chairman. Mr. Secretary, thank you for being with us. And we would be happy to hear your testimony and then begin some questions. You may proceed.

STATEMENT OF HON. KEN SALAZAR, SECRETARY OF THE INTERIOR, U.S. DEPARTMENT OF THE INTERIOR

Secretary SALAZAR. Thank you very much, Chairman Dorgan, for inviting me here. And to Ranking Member Barrasso, thank you for both of your kind comments, as well as to all of my, I think you will all always be my colleagues. They say once a Senator, always a Senator. So Senator Murkowski, Senator Johnson, Senator Tester, Senator Udall, you are all my friends and my colleagues. I very much look forward to working on the many challenges that we do have.

I think Senator Tester perhaps said it well, when he said there is lots of opportunity and places where there are lots of issues and lots of problems. Indeed, when we talked about the issues that we face with Indian Country and our Native American agenda, there are lots of issues there and lots of work to be done.

I was asked by Chairman Dorgan to come before this Committee some time ago, and we were not able to do it before the Senate confirmation process, which I think took place on January 20th. So this is my first appearance before a committee in my formal capacity as Secretary of Interior. And I think it is fitting and appropriate that I am before this Committee which is a committee that provides such a strong voice for the First Americans of the United

States of America. So I appreciate the invitation and I look forward to the discussion this morning, and more importantly, I look forward to the days, weeks and years ahead where we will confront the challenges that we face across this Country with Native American communities, and we will do that together.

Let me say at the outset that I think one of the things that the Committee and Native American communities and leaders around this Country should very much understand is that the Nation's First Americans are going to have a place at the table under President Obama's Administration. He was very clear about that as he went around the Country in his campaign. He has been very clear about that with me, and we will make sure that issues of Native Americans are a high priority within the Obama Administration. It is a high commitment by the President.

Indeed, this last week, the First Lady, Michelle Obama, visited the Department of Interior. One of the things she spoke about is that there would be a position in the White House that would also help us in terms of putting the spotlight on the needs and issues of Native American communities. So we will work on it to make sure that it happens.

Let me make five or six points at the outset and then hopefully just engage in a conversation with you. I do have a more formal statement for the record.

The CHAIRMAN. Without objection, that will be included in the record.

Secretary SALAZAR. Let me say first, I think that it is important for me as Secretary of Interior to make sure that the positions that we have in the Department of Interior reflect the face of America. I am committed to having a face at the Department of Interior from top to bottom that is reflective of the face of America. In that context, we are very close, I have selected a person to be the Assistant Secretary for Indian Affairs. The vetting is underway. It is a name which is a famed name across Indian Country, who will help us in dealing with many of the challenges and issues that we confront.

But I will not stop with the President's appointment and Senate's hopeful confirmation of the Assistant Secretary for Indian Affairs. It seems to me appropriate and proper that we move forward and make sure the Native Americans are also included in other positions. And I do have offers, and we are currently going through the vetting process to Native Americans for the position of Solicitor General for the Department of Interior. It will be the first time in the Department that we have a Native American who will serve as Solicitor General for the Department of Interior.

I also have made an offer to a Native American who will become the Commissioner for the Bureau of Reclamation within the Department of Interior. Those are non-traditional positions for Native Americans to hold within the Department. But I think the people that we have here that we hopefully will get confirmed by this Senate in the next month or two are the kind of 800 pound gorillas that you want to work on the major problems that face the Department of Interior.

So I want to say that at the outset in response to Chairman Dorgan's longstanding concern about the failure of the last Administra-

tion to fill the Assistant Secretary for Indian Affairs for a period of up to four years.

Let me speak to four issues. They are the issues which I think Senator Udall, you spoke about, which I referred to yesterday and statements were made by our Native American leaders. First, I understand the importance of economic development. When you have reservations that have unemployment rates as high as 80 percent, where the per capita income for many of our Indian communities is half of what it is for the non-Native communities, it is clear that we have some major economic development challenges across Indian Country. I am hopeful that that will be one of those areas that we can work on, we can bring about new economic development opportunities for the Indian communities across our State.

I believe the economic stimulus package, which I know some of you on this panel are supporting, some of you have concerns about the package, nonetheless, I think when that package comes across the finish line, there will be a significant infusion into Indian Country that hopefully will help us deal with some of the economic development challenges that we face in Indian Country. But I do intend to work with my Assistant Secretary of Indian Affairs and within the programs of the Department of Interior to put a spotlight on creating economic development opportunities.

Secondly, energy development. We all know in this Committee, and many of you who are here who serve on the Energy Committee, the challenge that we face on this signature issue of the 21st century. And we will move forward with a very robust agenda that will develop a comprehensive energy plan for the Nation. It will involve the use of our conventional resources, oil, gas, and coal. But it will also move us forward to usher in a new frontier of renewable energy. And as we move forward with that agenda, it is going to be very important that that whole agenda is one that is fully shared by our Native American communities. Many of our best places for the development of wind energy and solar energy, for example, are found right in the reservations. And that, coupled with the already robust resources that are being developed in many of our reservations around the Country create significant economic development opportunities for our Indian tribes.

Third, the issue of education. For me and many of you who know my own story, you know that I strongly believe that education is the keystone to everything else. My whole family, all eight of us in my generation became first generation college graduates, all of my siblings became first generation college graduates. I am here today as Secretary of Interior in large part because of the educational opportunities that I had.

I want to provide those same kinds of opportunities to the First Americans of our Country. So we will work hard to make sure that that happens. We have about 50,000 students in 183 schools in reservations around the Country. We have major problems in those schools, including performance in those schools, including dilapidated buildings. Our hope is that we will be able to put significant energy behind creating opportunities for the young people who attend those schools.

Fourth, law enforcement. I understand very much what happens with lawlessness in reservations. In my own state, with the Moun-

tain Utes and the Southern Utes, we have had experiences over the last 10 years during the time that I served as Attorney General, as well as during the time that I served as United States Senator, where we have seen, frankly, the rule of law essentially abandoned, especially in one of those reservations.

So we have brought in resources that have included partnerships with the local FBI and local government to address some of the shortages that we have with respect to enforcing the law on those reservations. There is no reason why we cannot do more. I will be working closely to develop a program that focuses in on the law enforcement issues.

I know from some of my friends in Indian Country, they have told me that methamphetamine is the scourge of the Indian reservations across the entire Country. Some have said that, you think about the level of usage and the scourge that it is creating in the reservation, it is the number one problem on the reservations today. So we need to do a lot more with law enforcement. I look forward to working with the tribes, as well as working with our law enforcement authorities, both at the Federal, State and local level, to see how we can bring about additional resources to make sure that the rule of law is upheld.

And finally, I will comment on the trust status and some of the trust issues that have been raised, which have been problematic for past Administrations, both Democrats and Republicans. Two of my predecessors in the last 12 years have been held in contempt of court for the management of the trust assets of the Native Americans under the trust responsibilities of my department.

The Cobell litigation is an outgrowth of the frustration with the management of those assets. We will try in the months ahead to see whether we can bring that litigation to conclusion. But as important as that litigation may be, it is also important that we manage the trust assets in an appropriate manner. We will commit the energies of the Department to make sure that we get that done.

So in conclusion, Mr. Chairman and members of the Committee, I very much look forward to working with you. I believe that as we look at all these challenges we face, we all know that you can't wave a magic wand and all of a sudden the issue will be resolved. It is going to take a steady hand and a long-term sustainable commitment to address these issues, whether it is the issue of law enforcement, economic development, health care or the rest of the issues we talked about.

But I am convinced that in partnership with you and in partnership with the tribes of America that we can make a difference, we can help change the world. But as we change the world, it is also important that we also change the world in a positive way for the Native American communities of our Country.

[The prepared statement of Secretary Salazar follows:]

PREPARED STATEMENT OF HON. KEN SALAZAR, SECRETARY OF THE INTERIOR, U.S. DEPARTMENT OF THE INTERIOR

Thank you, Chairman Dorgan, Vice Chairman Barrasso, and Members of the Committee. This is my first hearing since being confirmed as Secretary of the Interior. I am proud that my first hearing as the Secretary of the Interior is about America's First Americans. I am also honored to appear before the Senate Indian Affairs Committee to discuss the Department of the Interior's role for Indian Affairs.

During his campaign for the Presidency, President Obama spoke out in support of empowering Indian people in the development of the national agenda. As President, he recognizes that federally recognized Indian tribes are sovereign, self-governing political entities that enjoy a government-to-government relationship with the United States government, as expressly recognized in the U.S. Constitution. I, too, am a strong supporter of the principle of tribal self-determination and will work to fully enable tribal self-governance.

As Secretary of the Interior, I will work hard to empower America's Native American communities by helping address economic development, education, and law enforcement and other major challenges faced in Indian country.

There are many challenges facing our Native American communities. I believe that together, we can create many opportunities for these communities to thrive and flourish. I am committed to restoring the integrity of the government-to-government relationship with Indian tribes. Together, through consultation and with a spirit of mutual respect and understanding, we can address these challenges and can create stronger economies and safer Native American communities.

I am committed to ensuring that the Department of the Interior fulfills the trust responsibility of the United States. I will also seek to resolve the unending litigation about the management of these lands and assets. I would also like to reiterate my commitment to the settlement of Indian water rights claims.

While there are many important priority issues for Indian country that I will address as Secretary, today I would like to discuss with you more fully four important areas for the Nation's Native American communities: Economic Opportunities, Energy Development and Climate Change, Education, and Law Enforcement.

Economic Opportunities

For too long, Native Americans have experienced some of the most severe socioeconomic conditions in the United States. More than a quarter of all Native Americans live in poverty and unemployment rates reach 80 percent on some reservations. Real per-capita income of Indians is less than half of the U.S. level. Eight of the ten poorest counties in America include Indian reservations. Housing conditions in many of these areas are inadequate, and about 14 percent of all reservation families have no electricity.

I believe that the Department of the Interior should be a partner with tribal communities to advance sustainable economic development. A good partnership between tribes and departmental programs in key areas will stimulate a much needed economic boost for tribal economies and the national economy. The Department's capacity to address infrastructure and employment needs through its programs will provide a framework for robust national economic development. Our programmatic outreach will extend from tribal water projects and loan guarantee programs to workforce training and transportation programs.

In addition, the economic stimulus package will provide much needed economic development for Native communities. The bill would provide funds for infrastructure and workforce development, and create thousands of jobs.

Today, approximately half of the 562 federally recognized tribes operate gaming facilities. This has created 670,000 jobs nationwide and provided $11 billion to federal and state governments through taxes and other revenue. The vast majority of these gaming operations are small enterprises that provide jobs to tribal members. Gaming revenues are important tribal resources for funding education, healthcare, law enforcement, and other essential tribal government functions. As Secretary of the Interior, I will implement the regulatory framework established by the Indian Gaming Regulatory Act and promote the government-to-government relationship between tribes and the federal government and continue to work with states and local governments on these matters.

Energy Development and Climate Change

A defining issue of our time is energy and climate change. We must succeed as a Nation to create a new energy frontier. As Secretary of the Interior, I have been tasked by President Obama to take a key role in our moon shot to energy independence and addressing climate change. Indian lands can be a rich source of conventional fossil fuels. But they also have major renewable energy potential. One of the greatest opportunities for economic development for tribes can be the development of alternative energy sources, including solar, wind, and geothermal resources.

Indian country offers some of the premier wind energy sites in the United States. The Office of Indian Energy and Economic Development has identified 77 reservations that possess commercial-scale wind resources and the ability to support viable wind-based economies. Forty of these locations are in states that enacted a Renew-

able Portfolio Standard requiring utilities to purchase a certain percentage of their power from renewable sources.

Renewable energy projects could also spark creation of thousands of green-collar jobs. I look forward to exploring with our Native partners the potential for wind, geothermal, biomass and solar energy development that exists on those lands.

Education

A key to success for the Nation's First Americans is a high-quality education. The Department of the Interior is responsible for 183 elementary and secondary schools and dormitories as well as two Bureau-operated post-secondary institutions. Our school systems serve approximately 47,000 students on or near 63 reservations in 23 states.

Tribes today are struggling to preserve their native languages. We will be examining ways to preserve those languages through the Indian education system. We must also examine the No Child Left Behind Act and its implementation and the issues it has raised in Indian schools. I agree with President Obama and Vice President Biden that our children and our country need a vision for a 21st century education in Indian schools. This begins by demanding more reform and accountability and asking parents to take responsibility for their children's success. An example of this is the Family and Child Education (FACE) program, administered by the Bureau of Indian Education, which provides funding for Indian students and their families and prepares children for Indian education opportunities through early childhood education. Participation of children in the FACE program reduces the need for school-age special education by 50 percent. Additionally, this vision includes recruiting, retaining, and rewarding teachers who teach in Bureau of Indian Education schools. I will work on implementing the President's plan to restore the promise of America's public education, and ensure that American Indian children are provided the opportunity to lead the world in creativity and success.

Law Enforcement

Finally, I want to fight crime in Indian country. As Colorado's Attorney General, I led efforts to make communities safer, fight crime, prosecute gangs, and address youth and family violence. These same problems plague Indian country. The crime rates on most reservations are unacceptably high. I will use my law enforcement experience to work with the kinds of partnerships that will help bring about safer communities, which in turn create stronger communities.

The United States, through the Bureau of Indian Affairs, Office of Justice Services, and tribal programs, provides public safety and judicial services to Indian tribes and their communities. The Department provides either directly or through Indian Self-Determination and Self-Governance contracts and compacts basic law enforcement services; local court services; detention and corrections programs; and professional training related to policing, detention and judicial services.

As Secretary, I plan to address several key issues relating to law enforcement in Indian country. Violent crime in Indian country must be aggressively confronted and we will continue to work with Tribes and the Department of Justice in this regard. We will continue to aggressively attack methamphetamine trafficking and abuse in Indian communities. In a 2006 survey, 74 percent of tribal law enforcement officials reported methamphetamine to be the leading threat to their tribes. The dramatic increase in the use of this drug has brought with it increases in domestic violence, child neglect, crimes against women, and weapons charges. I also plan to address the serious declining conditions of detention facilities in Indian country as well as staffing needs for those facilities. And finally, I want to work on strengthening tribal court systems.

Safer communities mean stronger communities. We must continue to work together, the federal government, States, and tribes, to ensure the safety and security of our First Americans. It is a responsibility that I take very seriously.

Conclusion

Thank you for the opportunity to share my views on some of the critical Native American issues with the Committee. I look forward to working with you. Thank you.

The Chairman. Mr. Secretary, thank you very much for your comments and your thoughts.

Let me begin by saying, I don't intend to tarnish the Bureau of Indian Affairs completely, but I do have great difficulty with the BIA. I think it is unbelievably bureaucratic, very difficult to move

on things. I won't give you all the evidence of that, but I hope you will tip that agency upside down, shake it and then set it back upright to see if we can rearrange it and make it work. Part of that, of course, is selecting the right Assistant Secretary, getting somebody in place.

Again, I know there are some wonderful people that work in the BIA. But I could tell you stories that would just make you furious about the lack of things getting done over there. It is just big, bureaucratic and not very workable.

I am going to put a chart I think that shows oil development. This happens to be something I am working on, and by the way, thanks to George Skibine and some others, we made some progress. But oil development, you will see in the middle there, the Indian reservation is the gray. All the other marks there, the yellow and green, that is all oil wells that have been dug in the Bakken Shale, the biggest oil play in America.

You will see there are oil wells drilled north, west, and south. The problem is that big old blank space in the middle; they are not drilling many wells. Why? Because there is a 49-step process to get a permit. You have four different groups in the Interior Department that have to sign off: BIA, Minerals Management, BLM, Office of Special Trustee. The result is, all this oil development is going on, and the place where it is most needed and where oil exists under that ground is not happening very much.

Now, we have made some progress. I have been pushing in recent months, we finally have made some progress on the virtual process and so on. And I appreciate that. But I tell you this only to say that in the absence of somebody saying, look, there is something massively wrong here, you have a 49-step process with four agencies.

It is just such an apt description of what is wrong. I was at an Indian reservation some while ago. They showed me a building that had been built, a beautiful building, I think it was three or four stories, maybe three stories high. Completely vacant. I said, why are there no tenants? They said, well, we have been waiting for the BIA to sign the lease. I said, how long have you been waiting for the BIA to sign the lease? Well, about a year, year and a half. Paper is in, just didn't get it done. So that big old building on the reservation sits empty.

Well, enough about that. It is going to require effective, strong leadership to change a culture, in my judgment, in the BIA. You have described someone that you are vetting for Assistant Secretary. I understand that you are confident this is a person who can do that job. You are right that three of the last four years it has been vacant. And you feel, let me let you say it again, you feel confident you are on the trail of the right person to lead the BIA?

Secretary SALAZAR. Let me just say that I have been serving as Secretary of Interior only since the 21st of January. At this point, I am the only person confirmed by the U.S. Senate to run the Department of interior. It is a big department with many bureaus and many agencies, 67,000 employees. There is a lot of work to be done. So we are spending a lot of time getting our team together. But we are searching for the best talent in the United States of America. I am confident that the talent we will be able to bring in will be

able to provide the kind of organizational changes that you allude to.

The 49-step process that you allude to is, I think, absolutely abysmal. It is something that needs to be fixed. We will give it a high priority. Laura Davis, who is not subject to Senate confirmation and is an Associate Secretary already, is working on trying to move forward to address a particular issue with respect to the permitting delays on the reservation that you spoke about, Senator Dorgan.

So we are on the case. I recognize that one of the realities that we have to do is take a look at what we have inherited and try to make changes to make it work better.

The issues of Native Americans are not to be partisan issues, they are not to be Democrat or Republican issues. But there is a fact that without an Assistant Secretary of Indian Affairs in place for the last three or four years, many of these issues have simply not been addressed. So we will be addressing them, especially as we get our feet on the ground and start getting our management team in place.

The CHAIRMAN. The Economic Recovery act will almost certainly pass the Congress by week's end. That has about, I believe $2.8 billion of funding for a range of issues on Indian reservations. It deals particularly with construction projects, detention facilities, and a range of issues that will put people to work and also construct some long-delayed projects. I assume that you are working with your staff in order to be able to implement that and put the money out in a way that puts people to work and begins to address some of those needs?

Secretary SALAZAR. We are indeed. From our point of view, the infusion of the economic stimulus money is about creating jobs. But beyond creating jobs, it is about creating some sustainability on some of these issues that confront us, whether it is in the world of the Native American community or whether it is other issues. So we are working hard on it. We are very aware of the opportunity that is presented to us. And it is for that reason that even yesterday I was probably having 10 conversations with different people about helping us get the team in place. Because it is difficult, frankly, to move forward with a program that is as robust as the one we have in the Economic Recovery Program when we need to have people to make sure that we can implement in a quick fashion the opportunity that is presented to us.

The CHAIRMAN. Mr. Secretary, we are going to be doing some listening sessions around the Country with tribal leaders and tribal members. We are also going to do some tours of some Indian reservations and we hope perhaps to invite you on a tour some place down the line, to join some members of this Committee to go out and tour some reservations and meet with some tribal members.

I also want to make a point that we are going to continue to make Indian health care and the Indian Health Care Improvement Act a significant priority of this Committee. That is over in Health and Human Services with respect to the Federal agency.

But the other piece that we are working on, and we began in the last session, is this law enforcement piece. We have such serious problems in law enforcement across the Country. On the Standing

Rock Indian Reservation, we have violent crime that is five times the rate of the national average. It has nine full-time police officers that are supposed to patrol an area the size of Connecticut.

So an urgent call that comes in to law enforcement from someone who has just been raped or the victim of violent crime, they might have the law enforcement folks show up 10 hours later, 12 hours later, maybe the next day. It is a very serious problem, and we are taking it seriously. We have put together a piece of legislation that is bipartisan. We had 12 colleagues sign on. We want to work carefully with you and your organization, and the BIA, because we have to fix it. It requires some resources, but it also requires some reorganization as well. I wanted to just mention that to you.

The key, I think, is for all of us to work together as you assume the reins at Interior and we try to focus on some of these critical issues.

I do want to mention that we have been joined by Senator Johanns. We welcome you to the Committee, and we are pleased you are here. We load this Committee with folks from the northern Great Plains, as you know, who have a very significant interest in these issues.

Let me call on the Vice Chairman.

Senator BARRASSO. Thank you very much, Mr. Chairman.

Thank you, Mr. Secretary. I appreciated your comments. I am delighted that you are currently vetting someone for Assistant Secretary of the Bureau of Indian Affairs, a position that was too long vacant. I am delighted to hear your comments about the importance of economic development, energy development, education, law enforcement, one right after another. I want to echo so many of the comments by Chairman Dorgan. We are going to address issues with Indian health. I am looking forward to working with him.

Like all the members of this Committee, I have experience within our own State of concerns. On the Wind River Reservation there is an irrigation system. The GAO reported in 2006 that there was over $84 million in deferred maintenance. Congress appropriated $3 million for this in fiscal year 2006 and 2007. The State of Wyoming, and I was in the State legislature, provided a matching amount, another $3 million for repairs.

There still appear to be delays and difficulties in spending drawdowns from the BIA for the project repair and maintenance. I will ask you or your staff to look into this and ensure that the Department will cooperate and coordinate better with the Eastern Shoshone and Northern Arapaho Tribes to complete the irrigation project repairs in a timely manner for money that has already been appropriated. So if I could ask you to look into that, Mr. Secretary, I would appreciate it.

We talked about law enforcement, and we talked about education. And you mentioned your own family experience, which is the same as my own in terms of how important education was. Safe schools to me is the key. That plays into both the issue of education as well as into the issue of law enforcement. The Wind River Reservation in Wyoming is almost the size of the State of Connecticut. We have two officers in an area that size. So it can be 12 hours or the next day until someone can respond to a law enforcement problem.

So I would ask that you also try to address the issue of school safety as part of both education as well as law enforcement. I don't know if you have any thoughts on that, or how you want to pursue these issues in a timely manner, Mr. Secretary.

Secretary SALAZAR. Senator Barrasso, I appreciate the question. Let me just say, on school safety, obviously, I was the Attorney General on April 20, 1999, when the bloodiest school shooting in America took place right in my State. So I have spent a lot of my time in public service actually working on trying to create safe schools, and have ideas about how we can take the blueprints of the kinds of plans that have been created at the University of Colorado for school violence prevention and the like. So we will look at that in connection with the creation of safe schools.

On the Wind River Reservation and the water project, let me take a look at that and have my staff look into that and see where we are and where we might be helpful.

If I may, just reverting back, Senator Dorgan raised two issues on health care and law enforcement. Your eloquent speeches last year will never be forgotten by me as I sat in the chair and I heard you describe the reality of the dismal health care conditions in Indian Country. And though it is not my department, there is a role I will play there, and indeed, even last week have talked to members of the House of Representatives about the importance of that particular legislation.

On law enforcement, I think that the experience that I bring from law enforcement, as well as the experience that my chief of staff, Tom Strickland, will bring to the law enforcement issues. He will be very helpful. Tom Strickland served as United states Attorney for Colorado. He knows these issues in terms of the partnerships that need to be brought together. So it will be a high, high priority for my Administration to deal with the law enforcement issues that both of you mentioned.

Senator BARRASSO. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman.

I want to tell you what a pleasure it is to have you here today, Secretary Salazar. There are tons of issues out there, the Chairman and Ranking Member have delineated them pretty well. I am just going to touch on a couple that are pretty big from my perspective.

One of them is Indian water settlements. We have got two authorized in the State of Montana, I think there are four others in the Country that are pending here in Congress. I just wanted to know your perspective on those water settlements. I know your focus right now, it is kind of unfair, your focus right now is building a team, and I appreciate that. I really think that is critically important.

But as you look out, where do you see these water settlements, as far as the completion of them? Basically what I am going to ask you in the end is, is the Department going to take an active role in trying to help us get these water settlements through?

Secretary SALAZAR. Senator Tester, I thank you for your friendship and your guidance on so many issues, including this issue. We

will recognize there are four, five, perhaps six settlements that are in the offing, some of which have been introduced in the prior Congress. And they will be of high priority for me. There may have been other Secretaries of Interior, but I have worked on many of these settlements myself, including the one that resulted in the Indian water rights settlements in Colorado. Colorado stands, I think, almost alone as a State where we don't have any issues with our Native American tribes, because we were able to resolve these settlements. I know they were complex and difficult and expensive. But some of them have dragged on for too long, decade after decade after decade without any resolution.

So when you get to the point where you have the dynamics of the possibility of settlement, I think it is important for there to be leadership, including the leadership of the Secretary of Interior, to try to get it across the finish line. So we will pay attention to them. We will make sure that we have them prioritized. In fact, last night, I was having conversations about someone who might be a special counsel just on Indian water rights settlements that will work within the Secretary's office. So it is high on our radar screen.

Senator TESTER. Thank you very much. The tribal recognition process is an issue that, it needs improvement from my perspective. Let me give you an example. We have a band of Indians in Montana called the Little Shell that actually started in 1978 trying to get recognition, shortly after the bill was passed to allow the process for a tribe to achieve recognition. Over the last 31 years, they have had information requested of them which I think is appropriate, but it has gone on and on and on. Actually, it was about a month or two ago I thought maybe we were going to finally get a decision, and it has been delayed for another six months.

I think the Chairman has said before, and I agree with him, I would like to see the process work. I don't really want to see Congress have to intervene for recognition of tribes. But the truth is, from my perspective, it shouldn't take 31 years for a tribe to get recognition. And all I am asking for is an answer, yes or no, do you think there are things you can do to speed up this process of tribal recognition to make sure that, number one, the information, when they get the information, I don't know why it is continually put off, I don't, but they can ultimately come to a conclusion or make a decision? What is your perspective on the tribal recognition process and how do you see it moving forward under your leadership?

Secretary SALAZAR. Senator Tester, I think that when one has to wait for a process that lasts 31 years to get an answer, that it is too long. So I think this is an area which needs examination to determine what it is that we can do to try to improve it. It is a complicated issue, it is not a simple issue in terms of tribal recognition and the legal implications that result from that kind of recognition.

But there is no reason why we should have a process that essentially just ends in an endless road year after year after year. So we will take a look at the process and see if there are ways in which we can improve upon it.

Senator TESTER. Thank you. One other thing, and like I said, when I first got to this Committee, when I first got this appointment, I met with a group, and I said, what are the issues. They started laying out the issues and finally, after about 10 minutes,

I said, stop. We have to prioritize, because you have too much stuff. And that is kind of the way this Committee meeting could be. There are so many issues out there, as you know full well, that we could literally spend all day talking about the challenges in Indian Country.

I do want to talk about the first thing that you talked about as you referred to Senator Udall's statement on economic development and how critically important it is that we get the unemployment rate down and we get the business community cooking in Indian Country.

What role do you see tribal colleges playing in the economic future of Indian Country?

Secretary SALAZAR. I think tribal colleges, Senator Tester, are very important in terms of creating the kind of educated workforce that is needed to bring about that kind of economic development. And I do think that many of the problems that we see on the reservations beyond the high unemployment rate, the dropout rates, the issues with law enforcement, the high crime rates on the reservation, are frankly rooted in the economic condition in those reservations.

So I think the more we can do for education, the more we will then be able to change about the economic realities that are faced by First Americans across this Country. So I recognize the nexus that is there.

Senator TESTER. Well, I appreciate that. I think I will just close with this. Before you were confirmed to this position, I made an offer for you to come to Montana. That offer is still there. And we can take a look at both what is going on in Indian Country and some things that the Department of Interior has specific oversight of. We look forward to making that happen. Thank you.

Secretary SALAZAR. Thank you, Senator Tester.

If I may, Chairman Dorgan, one of the realities of this Department that I have frankly discovered in the first few weeks that I have been there is that there is a perception that this is a department only of the west. It is not a department only of the west, it is a department of all of America. When you think about the reach of this Department, it is from sea to shining sea and out beyond the seas, because of the continental shelf and the 1.75 billion acres that are there. The Native American communities have a presence, frankly, all across the Country, and they have different kinds of issues, depending on whether they are from the High Plains or the eastern coasts and the like.

So one of the things that I actually find very interesting and very challenging is trying to get around to the different places where the responsibilities of the Department are frankly at stake and are on display. Certainly whether it is Montana or North Dakota or South Dakota, I can think of lots of different things from Native American issues to water projects to national park issues to a whole host of other things that are important to your State.

So I hope to be able to spend as much time as I can coming out to your respective States and joining Chairman Dorgan. Also perhaps I was thinking in North Dakota, maybe a trip out to a reservation, but also to see some of the energy projects that you and I have talked about, as well as some of the water projects. So it

would become a matter of timing and scheduling, because there is also the reality, I have to spend some time at work and getting the job done. But I will try to do as much as I can.

The CHAIRMAN. Before I call on Senator Johanns, let me make a point on this issue of tribal recognition. I went through a list of things we are going to work on, health care, law enforcement, housing, education and so on. And in education, tribal colleges, as my colleagues have mentioned.

This issue of tribal recognition is enormously troubling to me, because I don't want the Congress or this Committee to be the arbiter of who should be recognized and who shouldn't be recognized. That is a job that should be done by the Interior Department through a process that we have described in law and for which you have written some regulations in the Interior Department.

But my colleague from Montana is absolutely correct, Mr. Skibine knows that we have complained about this for a long while, the system isn't working. We really do have, in many cases, 20, 30 or longer years in which tribes file petitions and never quite get an answer, and it gets delayed and delayed and delayed. It is just not working. Perhaps on your watch, we can make this system work, so that we have a recognition system at the agency that will actually function and get a final resolution of these issues.

We have the Lumbee Tribe, some Virginia tribes, Little Shell, we have a good number of tribes that have come to the Congress saying, we want you to pass legislation giving us recognition. I would much prefer that that be done in Interior. Lumbee has a separate issue, because they are prevented from going through this process in Interior.

But we want to work with you on that. I know my colleague from Montana feels that way. We really want to figure out how, determine how we can help you fix this process. In the meantime, we are going to have some hearings in an effort to work with these tribes to determine how long has it been, what has been the problem with their petitions and do we have to move or do we wait for the process.

So I just wanted to say that, because I think it is very important. Many of them have been waiting a long time, and many have died while the petitions have been in front of the Interior Department.

Senator Johanns.

STATEMENT OF HON. MIKE JOHANNS,
U.S. SENATOR FROM NEBRASKA

Senator JOHANNS. Thank you, Mr. Chairman.

Let me start out, if I could, Mr. Secretary, and speak in reference to what the Chairman was talking about, relative to energy and exploration. I thought that map was very telling. This is my first hearing, so I thought it probably would not be appropriate for me to stand up and cheer or yell amen.

But the Chairman is right, this takes too long. And a process that has that many steps, I will be very honest, I am not sure why people bother with it. Because it has to be so impossibly cumbersome.

So I lend my bipartisan voice here in saying, this is something that really needs some attention. You will get strong applause on this Committee if you can tackle this one.

Another thing that I just wanted to offer as a suggestion, because it worked very, very well for me as a governor. I would have an annual tribal summit, and we would work on an agenda and really put some time and effort into it. I don't know if you can do that on a national basis, but one of the things I would encourage is to go out to the States and maybe have a tribal summit in a few states each year, where you can really zero in on those tribes and what their issues are. I think listening is always a very good thing, and they will be very excited to have you there listening.

Now if I might zero in on a couple of things here, health care. I will never forget visiting a reservation in Nebraska as governor, and I visited a dialysis center. It was very, very nice. It had just opened, and it was doing exactly what people hoped it would do. But as we talked about the need for that center, and I am drawing on memory here, but I think I was told that 40 percent of the adult population on that reservation had diabetes. It is just an enormously serious health condition, as you know. There are just so many things that happen to a person's health if they have diabetes, none of them good.

I would really ask you for your thoughts on this and how we might develop maybe even some kind of focused effort here to deal with this. Because it is not only treating diabetes, it is what gets us to that. Is it diet? Is it alcohol abuse? What is it and how do we get in front of this? Because this is a plague upon Indian Country. And if we don't deal with this, it is hard for me to imagine these other issues that we are concerned about work very well.

Your thoughts on that, Mr. Secretary?

Secretary SALAZAR. First, Senator Johanns, let me congratulate you on your election, and now your service in the U.S. Senate. I was thinking that the last time that you and I had a conversation, I was up there and you were down here.

[Laughter.]

Senator JOHANNS. Let me say the view is better from here.

[Laughter.]

Secretary SALAZAR. There is life after being a Secretary, see. But I am very excited about the current position that I have. Congratulations to you.

Let me just say, your concept of an annual summit, that may make some sense for us. Let me try to figure out whether that is something that we can in fact do. It probably would be more effective, frankly, if we did that together. We might do that with this Committee and others that are involved.

That leads me a little bit to the issue of health care. There are some aspects of health care that we can work on within the Department of Interior, but most of that is over in HHS. And so how we work on this panoply of issue is going to require a commitment on the part of the entire Administration to deal with these issues. President Obama is committed to making sure that we change the conditions in Indian Country, all across the Country.

So I am certain that whoever it is that becomes the Cabinet Secretary for HHS will have this as a high priority.

I think the issue of diabetes in the Native American communities is frankly only more stark than it is with the rest of the Nation, and the problems we have with health care. How we move forward with health care reform, especially in the area of prevention, is something that is very important. I have seen relatives of mine, frankly, die from diabetes conditions. There are things that can be done early on in life to try to prevent all the health problems that are associated with that particular condition.

So it will be something that will be on my radar screen. It will be something that I will work on with my fellow Cabinet members and with President Obama to try to address in the great program that we need to move forward to deal with the health care crisis that we have in this Country.

And like with all other problems that we are facing in America today, when you look at Indian Country, the problems there are simply exacerbated over what we see with non-Native American communties.

Senator JOHANNS. A final thought I just wanted to offer, and it is really not a question, but it is a final thought. And I think you touched on it, and it is very good. The inter-relationship between the departments is so hugely important. I must admit, as a Cabinet member, it took me a while to figure that out. But once we figured it out and started pooling our resources and our talent, et cetera, things just went a lot better. It did seem like you could kind of get through some of the red tape. I just think anything you can do to work with the Ag Department, Health and Human Services, will pay big dividends. And the sooner you start that, the more opportunity you have.

So I think those things are just enormously helpful and very positive. And I would encourage you to do that.

Secretary SALAZAR. Thank you very much.

Senator JOHANNS. And congratulations to you. I was excited by your nomination. I think you are the right person for the job, and I will wrap up by saying, you do have some challenges. But I wish you the best, and if I can help, let me know.

Secretary SALAZAR. Thank you very much, Senator.

The CHAIRMAN. Mr. Secretary, it is probably safe to say this will be the easiest hearing you will have attended as Secretary when you finish your service as Secretary. I think most of us are pleased that you are there and wish you well.

Senator Johanns has talked about the diabetes issue. I wanted to mention that it is a scourge, and imposes such a heavy cost and heavy burden on the Indian population in this Country. We do have a special diabetes program, as you know, but that is, in many ways, complicated. We have that, I believe, funded through Labor HHS, in the appropriations process here. We have the Indian Health Service funded through the Interior appropriations process, despite the fact that the Indian Health Service is over in Health and Human Services.

So we need to find a way to see if we can bring this, establish some order here and how we consider these issues. As soon as we have people in place and nominated and confirmed, we will have Indian health folks in front of us and hopefully the Secretary of Health and Human Services as well to talk about Indian health.

As you know, we have our own special diabetes program focused on reservations. It has to gain a lot of our attention and focus because it imposes such a huge burden. Many, many years ago, when my colleague, the late Mickey Leland from Texas, served with me in the House, we went along with Congressman Penney from Minnesota to do a hearing out on a reservation on diabetes. And it was a pretty unbelievable hearing. On that reservation, I believe the rate of diabetes was not double, triple or quadruple the national average, it was ten times the national average. It is just a devastating impact on the population in Indian Country.

So my colleague from Nebraska is absolutely right. We want to make that a priority in our Indian health care considerations.

Let me complete this hearing as I started it. It is not easy to get your arms around the Bureau of Indian Affairs, just because it is a big old bureaucracy. Probably there are some good people working there. But there are other people who, I think, view themselves as human brake pads and try to slow everything down and stop it if they can. So we need to make that agency an agency that all of us can be proud of, that is on the front end of making things happen, making good things happen to address the significant problems that exist in Indian Country. All of us know that they were here to greet any one of our ancestors who showed up, they were the First Americans. And I have often said the First Americans should not have second class health care or second class education or second class housing. We need to work on these issues, because we have made commitments and solemn promises and have a trust responsibility that we have not yet met.

I was so pleased when your nomination was announced, because I know your background and have served with you and know your acquaintance with these issues. You don't come to this job not having had an acquaintance with all of these issues affecting Native Americans. I know that from your service here in the Senate and also from your service in Colorado.

So I appreciate the work that I know you will do to coordinate with this Committee on so many issues and we appreciate your attendance here today.

Secretary SALAZAR. If I may, Chairman Dorgan, let me also say that I am the first to recognize that I have a lot to learn about these issues. When I look at the collective wisdom that you bring, along with the rest of the members of the Committee and the staff of this Committee, we need your help. You know what the issues are and you have spoken to them so eloquently over the years. Ultimately, we will be able to succeed in dealing with these issues, from health care to law enforcement to education, to economic development, to trust responsibilities, frankly, if we have the working relationship where we are able to steal your ideas and learn from you as we move forward.

So I very much look forward to working with you.

The CHAIRMAN. Well, that is very well stated. This is not some mysterious illness for which we don't know a cure. We know the issues out there, we know how to address them and deal with them if we commit the resources and our time and our dedication. I thank you for serving as Interior Secretary.

This hearing is adjourned.

[Whereupon, at 10:30 a.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. CHRIS DEVERS, CHAIRMAN, PAUMA BAND OF MISSION INDIANS; CHAIRMAN, COUNCIL OF ENERGY RESOURCE TRIBES

Introduction

Good morning Chairman Dorgan, Vice Chairman Barrasso, and distinguished members of the Committee on Indian Affairs. On behalf of CERT's 57 member Indian tribes, I want to thank you for holding today's hearing to receive the views of Secretary Ken Salazar on matters related to Indian affairs and policies.

My name is Chris Devers and I am Chairman of the Pauma Band of Mission Indians in California and also Chairman of the Council of Energy Resource Tribes (CERT) which has its headquarters in Denver, CO.

I would like to congratulate Secretary Salazar on his confirmation by the U.S. Senate and pledge to him CERT's good will and strong desire to work together on the many challenges we will confront together in the coming years. I am pleased to submit the following statement regarding energy development, environmental stewardship, job creation, and trust management in Indian country.

CERT was founded in 1975 by American Indian tribal leaders when our country was in the midst of what was then known as the "Arab Oil Embargo." The embargo was put in place by the Organization of Petroleum Exporting Countries in response to America's support for Israel in the 1973 Arab-Israeli War. Many of us remember that the embargo caught America flat-footed and resulted in higher prices for heating oil and gas rationing that created long lines at the gas stations.

Back then, our national leaders promised that we would "end our dependence on foreign oil" and return America to a position of unquestioned strength in the world. Well, here we are nearly 40 years later and our dependence on imported oil and even natural gas has grown much worse. Historical context is important because CERT's mission is to support its member Indian tribes in the development of their management capabilities and the use of their energy resources to build sustainable economies and strong political institutions.

The Department of the Interior (DoI) is integral to the success of our member tribes and indeed Indian tribes across the country. President Obama has made clear that when it comes to meeting the energy needs of America, his Administration will pursue an "all of the above" approach to include renewable and non-renewable energy sources. I wish to make clear to the Committee that CERT is in agreement with this approach and that *American Indian energy* is *American energy* and when it comes to meeting our energy needs and related job creation, we should stress the development of our domestic supplies.

The Potential of American Indian Energy

American Indian energy holds enormous potential to create thousands of good-paying jobs, generate significant revenues, and aid in the development of tribal economies as well as help satisfy the American economy's need for a reliable energy supply. Three factors contribute to this scenario:

1. The enormous tradition energy reserves such as oil, gas, and coal, and the promise of renewable resources owned by Indian tribes;
2. The pricing environment for energy products; and
3. The enactment by Congress in 2005 and 2007 of classically liberal, pro-production energy policies. [1]

One merely witness the phenomenal success of the Southern Ute Indian Tribe in southwest Colorado, the Ute Tribe of the Uintah and Ouray Reservation in northeast Utah, and the Osage Nation in eastern Oklahoma to understand that American

[1] These are the *Energy Policy Act of 2005* (Pub.L. 109–58) and the *Energy Independence and Security Act of 2007* (Pub.L. 110–240). Both statutes contain provisions favorable to Indian tribal energy development and environmental management.

Indian energy resources, prudently managed, can transform Indian economies and assist tribes in achieving real and lasting self-determination.

Indian Tribal Energy Resources and the Pricing Environment

American Indian tribes in the lower 48 states—especially those in the Rocky Mountain west—own an enormous amount of energy resources. With the current Federal restrictions on exploring for energy in the Great Lakes, the eastern portion of the Gulf of Mexico, the California coastline, and the Alaska National Wildlife Refuge (ANWR), Indian tribal resources and lands in the Rocky Mountain West present one of the most significant opportunities for domestic production in the United States.

In what is now a dated analysis, in 2001 the U.S. Department of the Interior (DoI) estimated the total dollar value of energy produced from Indian tribal lands for the period 1934–2001 to be $34 billion. These revenues derived from 743 million tons of coal, 6.5 billion cubic feet of natural gas, and 1.6 million barrels of oil. In terms of undeveloped reserves and undiscovered resources, the DoI projected that Indian tribal lands could prospectively generate $875 billion, derived from 53 billion tons of coal, 37 billion cubic feet of natural gas, and 5.3 million barrels of oil. These projections were made in 2001 and in the intervening 7 years, the price of energy products has increased significantly so that, currently, the likely revenue projection would be nearly $1.5 trillion.

The New Energy Laws of 2005 and 2007

On August 8, 2005, President Bush signed into law the *Energy Policy Act of 2005* (Pub.L. 109–58) which included as Title V the *Indian Tribal Energy Development and Self Determination Act.* The new law authorizes a variety of Federal technical and financial assistance to participating Indian tribes and seeks to reduce administrative obstacles at the Federal level to encourage greater levels of energy development on tribal lands.

Unlike some congressional enactments, the new Indian tribal energy law does not discriminate in terms of renewable versus non-renewable resources. Instead, the law leaves the decisions over whether and how to develop tribal energy resources to the Indian tribe and the energy markets. The centerpiece of the new law is the authority provided to the Secretary of the Interior to negotiate and enter agreements ("Tribal Energy Resource Agreements") with willing tribes that would govern energy and related environmental activities on tribal lands.

Final regulations to implement the Tribal Energy Resource Agreements (TERA) authority were issued in 2007 and the Department's Office of Indian Energy and Economic Development (OIEED) is now poised to work with interested tribes to negotiate what are essentially bi-lateral agreements between the Department and the tribes. CERT urges the Secretary to ensure that the TERA process continues, that Indian tribes are apprised of their options under the new law, and that the OIEED and the tribes have the funding they need to ensure the success of the new energy law.

Similarly, in 2007, Congress enacted and the President signed the *Energy Independence and Security Act* ("EISA", Pub.L. 110–140) which contains significant opportunities for tribes and tribal colleges to receive research, development, and production grants related to renewable and alternative energy development. The Act authorizes billions of dollars for these purposes and is the most significant energy research law to be enacted in years.

Energy Project Development is Key

The new energy laws were signed into law in 2005 and 2007 and the regulations to implement them are now in effect. For the past four fiscal years, the Congress has appropriated funds for the OIEED and the Department of Energy's Office of Indian Policy and Programs, both of which are charged with administering the new laws. These offices have been very active and responsive to the potential for Indian tribal energy and have assisted Indian tribes that seek to develop their energy resources.

CERT's perspective on all of these developments is that the next steps involve Indian tribes inventorying their energy resources, identifying potential projects, and working with energy and financial partners to bring these projects to completion. The Department can and should play a vigorous role in assisting tribes in these efforts.

The tribal energy programs carried out by the OIEED are administered in the Minerals and Mining account within the BIA's Trust-Natural Resources Management budget activity. For FY 2009, this account will receive a total of $2 million: $1.4 million is for grants to tribes, and $600,000 for the OIEED to consult with Indian tribes and begin the TERA review process. To launch energy projects in ear-

nest, CERT believes increases of $1 million for grants to Indian tribes and $500,000 for TERA implementation are justified.

The OIEED also manages the Indian Guaranteed Loan Program which guarantees loans made by private financial institutions for a wide variety of tribal economic activities including energy development.

The Indian Guaranteed Loan Program is among the most flexible and efficient tools to encourage tribal economic development, including energy development. The BIA provides approximately 50 new loans annually under the program. Existing loans range from $250,000 to $18 million. Every dollar appropriated to the program is leveraged at least sixteen-fold, thereby maximizing the funding available to Indian country from private lenders. CERT urges the Secretary seek $12 million in FY 2010 to facilitate economic development in Indian country and encourage private investment on Indian lands.

The Office of Minerals Evaluation

The Office of Minerals Evaluation (OME) performs subsurface economic evaluation to determine the value of the subsurface estate for Indian trust and restricted lands. For Indian tribes and individual Indian land owners, this is an important step to obtain Secretarial approval for mineral leases. Without this evaluation, it is impossible for the Secretary to determine that the Indian interest owner is obtaining fair value.

CERT understands that at one point in 2008, the Department was considering outsourcing these appraisals, a move that CERT opposes. The OME is uniquely situated to utilize data from Indian tribes and within the Department to generate fair appraisals that the Indian landowners have confidence in. Any plan to outsource this function would erode this confidence.

A "National Tribal Energy Efficiency Initiative"

In addition to renewable projects, another initiative that would generate jobs in the short-run and long-run, will have positive environmental impacts in Indian country, and will produce greater economic benefits for virtually every Indian tribe in the country. The initiative CERT has in mind would be something along the lines of a "National Tribal Energy Efficiency Initiative" that could fund virtually every Indian tribe. The initiative would be massive but, if properly structured, would maximize the use of local labor and local Indian contractors.

In addition to home weatherization, the initiative could include all tribal government buildings and Federal facilities located on tribal lands. The high cost of heating and cooling because of poorly-constructed and poorly-insulated buildings equipped with highly inefficient lighting and H–VAC systems erodes program budgets, reduces services and produces environments that are not healthy for workers or for people who use access the facilities. It would dramatically reduce the operating and maintenance costs for health clinics, hospitals, schools and tribal colleges, tribal administrative buildings, and other structures on tribal lands.

The initiative would also have an immediate impact on the utility bills for heating for the most vulnerable Indian populations in the Northern tier of the country from the Pacific Northwest to Maine, the Tribes of the Four Corners Area, and the poor families of the Oklahoma Indian Tribes. And for the desert southwest Tribes, their weather related issues come in the summer months. Regardless of their geography, all of the Tribes have vulnerable populations: the elderly, infants and the disabled.

In a relatively short period of years, the initiative would transform Indian Country from among the most energy *inefficient* to among the more energy *efficient* and would lead to better health, more efficient programs and more competitive tribal economies. The energy savings could be measured in real dollars because the good thing about energy efficiency is that the savings are not one-time occurrences but accrue year after year. Even a massive Federal expenditure in an initiative of this type would be repaid in savings in 3 to 5 years, and would continue for another 10 to 20 years, depending on building maintenance.

Improving and Reforming Trust Management Practices

For decades, the issue of trust improvement and reform has bedeviled the United States and Indian country and lead to costly and acrimonious litigation and legislative battles that have sapped the morale of the Department and lead to a massive loss of confidence by the Indian tribes.

Efforts to reform the broken trust management system have resulted in any number of proposals and counterproposals that ultimately have not served the interests of the Indian beneficiaries. The simple fact is that the often-tepid attempts to reorganize and reform the Bureau of Indian Affairs, Office of Special Trustee for American Indians, and other Departmental offices have failed and the ongoing failure is resulting in the underutilization of Indian land and trust assets and a reduced ma-

terial standard of living for Indian people. The Obama Administration and Secretary Salazar have committed to working with Indian country on the many issues that continue to challenge tribal governments and Indian people.

Among these should be the following which involve working with both the Indian tribes and the Congress:

- Achieving negotiated settlements of both the soon-to-be re-named *Cobell v. Salazar* Individual Indian Money (IIM) lawsuit and the Indian tribal trust cases that are now pending;
- Developing a comprehensive, effective, and well-funded approach to stop and reverse the effects of fractionation and reconsolidate the Indian land base;
- Effectuating necessary changes in the law to foster land and natural resource management regimes that respect tribal authority and maximize decision-making; and
- Reshaping the Bureau of Indian Affairs, the Office of Special Trustee for American Indians, and the other Departmental offices so that these agencies can respond to and serve the needs of Indian tribes and their members.

Conclusion

Chairman Dorgan, this concludes my statement and I would be happy to answer any questions you might have on these matters.

Thank you again for the opportunity to express the views of CERT and its member tribes.

PREPARED STATEMENT OF HON. CHARLES DORAME, CHAIRMAN, NORTHERN PUEBLOS TRIBUTARY WATER RIGHTS ASSOCIATION

Introduction

Good morning Chairman Dorgan, Vice Chairman Barrasso, and distinguished members of the Committee on Indian Affairs. My name is Charles Dorame and I am the Chairman of the Northern Pueblos Tributary Water Rights Association (NPTWRA) which is comprised of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

I want to thank you for convening this important hearing to receive the views of Secretary Ken Salazar on matters of Indian affairs and also to congratulate Secretary Salazar on his recent confirmation by the U.S. Senate. I would be remiss if I did not also congratulate our former congressman Tom Udall on his election to the United States Senate and his decision to join this Committee which we, of course, applaud.

Last, I would like to give this Committee and the Secretary our sincere pledge to work collaboratively on the issues sure to come before us in the coming years, including legislation to resolve long-standing water rights litigation involving the Pueblos in New Mexico.

In 2008, legislation was introduced by then-Congressman Udall and Senators Bingaman and Domenici to provide congressional ratification to the Settlement Agreement to resolve the case of *State of New Mexico ex rel. State Engineer v. Aamodt,* No. 66cv6639 MV/LCS (D.N.M.). As this Committee knows, the Aamodt case has been left unresolved for 43 years.

These settlement bills (H.R. 6768 and S. 3381) were subject to legislative hearings in the committees of jurisdiction and the Senate version was reported favorably to the full Senate for its consideration.

Since the autumn of 2008, the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque ("the Four Pueblos") have been working in good faith with the State of New Mexico and representatives of the U.S. Departments of Interior and Justice to resolve outstanding issues relating to the prospective liability of the U.S. and the structure of the way the settlement would be financed. Negotiations with the state and Federal parties are continuing in an effort to resolve these matters.

Background on the Settlement and Its Terms

In the Pojoaque River Basin ("the Basin"), a tributary of the Rio Grande in northern New Mexico, conflicts over scarce water resources were litigated for decades. In 1966, then-State Engineer S.E. Reynolds brought suit against all water right claimants in the Basin to determine the nature and extent of their water rights. This case, *State of New Mexico ex rel. State Engineer v. Aamodt,* No. 66cv6639 MV/LCS (D.N.M.) was litigated for decades but in January 2006 a comprehensive Settlement Agreement was entered between by the Four Pueblos, the State of New Mexico, the City of Santa Fe, the County of Santa Fe, and others.

The settlement parties have worked hard and in good faith to identify and agree to areas of mutual interest and to fairly negotiate those matters that proved contentious.

Once approved by Congress, the Settlement Agreement would achieve a number of important priorities including the following: (1) Securing water to meet the current and future needs of the Four Pueblos; (2) Protecting the longstanding water uses and resources that make the Basin unique; (3) Preserving the centuries-old non-Pueblo irrigation in the Basin; and (4) Providing water for current and future uses by all of the Basin's residents.

The Pojoaque Basin Regional Water System

The centerpiece of the Settlement Agreement is the proposed construction of a water system for the Basin which will have the capacity to deliver 2,500 acre feet per year of water from the Rio Grande to the Four Pueblos. It will also be able to deliver 1,500 acre feet per year to the County Water Utility to serve future water users in the Basin as well as present domestic well owners who choose to connect to the system. The source of the water has been identified with the assistance of the State of New Mexico, the County, the U.S. Department of Interior, and the settling parties. The water system's provision of water to non-Pueblo water users is important to the Pueblos because it will reduce stress on the groundwater resources of the Basin. Without the construction of the water systems, the litigation cannot be settled.

The total project cost of the settlement is nearly $305 million which would be used to construct the Pueblo and County combined water system; county connections; the Pueblo Water Acquisition Fund; the Pueblo Conservation Fund; City Water Delivery Offsets; the Pueblo O.M.&R. Fund; the County Water Utility O.M.&R.; County Water Rights Acquisition; and Inbasin Water Rights Transferred to County Water Utility. Simply put, without the construction of the water systems, the litigation cannot be settled.

Project Costs and the Reclamation Water Settlements Fund

The total project cost of the settlement is about $305 million of which about $175 million would be the federal contribution, with the State of New Mexico, Santa Fe County and the City of Santa Fe prepared to contribute in excess of $130 million to the proposed settlement.

As this Committee knows, since 1990, the Executive Branch has gauged all Indian land and water settlements against the "Criteria and Procedures" that were issued in that year. While no proposed Indian water settlement is perfect in terms of meeting the Criteria and Procedures, the *Aamodt* settlement is as close to a neat fit that is likely to come before the Congress.

For many years, Senators from western states have grappled with the problem of financing Indian land and particularly water settlements. On April 19, 2007, Senator Bingaman introduced S. 1171, the *Northwestern New Mexico Rural Water Projects Act* which included language to create a "Reclamation Water Settlements Fund" ("Reclamation Fund") in the U.S. Treasury to fund the water settlements of the Navajo Nation and other Indian tribes.

The Reclamation Fund would make available some $500 million satisfy the Navajo settlement and an additional $250 million to satisfy the Aamodt and Taos settlements. The Reclamation Fund would also fund other Indian water settlements in Montana and Arizona.

Legislation to establish the Reclamation Fund was not enacted in the 110th Congress and, accordingly, on January 6, 2009, Senator Bingaman reintroduced a bill to authorize more than 100 separate pieces of legislation. This bill, the "Omnibus Public Land Management Act" (S.22) includes the *Northwestern New Mexico Rural Water Projects Act,* the Duck Valley Paiute Water Settlement Act, and others. The Senate passed the measure on January 15, 2009 and it is under consideration in the House.

Conclusion

Mr. Chairman, the time is right for the swift enactment of legislation to ratify the Aamodt Settlement Agreement and we are encouraged that the negotiation and settlement of Indian water settlements will be a priority for Secretary Salazar and the Obama Administration. This concludes my statement and I would be happy to answer any questions you might have at this time.

PREPARED STATEMENT OF TSOSIE LEWIS, CEO, NAVAJO AGRICULTURAL PRODUCTS INDUSTRY

Introduction

Good morning Chairman Dorgan, Vice Chairman Barrasso, and distinguished members of the Committee on Indian Affairs. My name is Tsosie Lewis and I am the Chief Executive Officer of the Navajo Agricultural Products Industry (NAPI), an economic enterprise wholly-owned by the Navajo Nation located near Farmington, NM.

I am very pleased to submit this prepared statement for the Committee's Oversight Hearing to receive the views of Interior Secretary Ken Salazar on matters related to Indian affairs and policies.

I would first like to congratulate Secretary Salazar on his recent confirmation and pledge to him and the department NAPI's desire to work collaboratively on matters of mutual concern. Secretary Salazar's family settled in New Mexico in the 17th century and for five generations has ranched and farmed the land in the San Luis Valley in Colorado.

NAPI Management and Operations

Secretary Salazar's long and distinguished public service has demonstrated his commitment to the wise use of our nation's natural resources, land, and water. It is with this in mind that I note NAPI's guiding principle: *Caring for our land. Caring for our future.* Currently operating a farm of approximately 70,000 acres, NAPI is one of the largest employers of Navajo Nation members on the Navajo Nation and contributes some $100 million annually into the economy of the Four Corners Area.

In its operations, NAPI has stressed the use of the state-of-the-art technology and environmentally friendly practices. The major crops grown and sold by NAPI include alfalfa; corn; onions; wheat and small grains; potatoes; pinto beans; and specialty crops. NAPI is governed by a 5-member Board of Directors and for a farm of its size has a modestly-sized management of 7 persons.

NAPI operates 4 departments as follows:

1. Operations & Maintenance (O&M) Department. NAPI performs the required Operations and Maintenance (O&M) through a Public Law 93–638 contract with the Bureau of Indian Affairs (BIA). The O&M Department is responsible for water delivery to NAPI farmlands using the Navajo Indian Irrigation Project (NIIP) storage, carriage, and distribution facilities. The O&M Department operates and maintains all aspects of the NIIP facilities that have been transferred to BIA.

2. On-Farm Development (OFD) Department. NAPI's On-Farm Development Department (OFD) is also funded through a Public Law 93–638 contract with the BIA and is dedicated exclusively for the development of new irrigation systems. This funding allows for assessment and planning and proceeds to constructing self-propelled irrigation center pivot systems, underground water lines, electrical systems for water control and radio telemetry systems.

3. Agricultural Testing and Research Laboratory (ATRL) Department. NAPI's Agricultural Testing and Research Laboratory Department (ATRL) was established to meet the needs of the NIIP and to provide analytical services and technical assistance to NAPI personnel.

4. Navajo Agricultural Marketing Industry (NAMI). Rounding out the major departments NAPI operates, NAMI's responsibility is to enhance the market share of NAPI products and to look for opportunities to introduce the "Navajo Pride" line of products into new markets both domestically and overseas. These products include alfalfa, pinto beans, potatoes, corn, grains, and specialty crops.

Through years of hard work and prudent use of our scarce resources, NAPI has become a profitable, high-tech agribusiness that is competitive in the American market and in the international marketplace. NAPI has participated with the U.S. Department of Agriculture in international trade shows to market our goods. NAPI also has entered a rare bi-lateral agricultural purchasing agreement with Cuba under which we ship commodities to the island in exchange for hard currency.

In December 2008, the New Mexico Department of Agriculture acknowledged and certified NAPI's agricultural practices and in particular those related to food safety in the field, in growing the crops, and in harvesting. The State's certification also brings with it a coveted spot on the preferred vendor list for consumers in New Mexico and elsewhere. Representative customers of "Navajo Pride" products include Del Monte, Wal-Mart, Basha's, Frito Lay, American Italian Pasta Company, and many other.

Opportunities for Economic Growth and Jobs

NAPI currently operates 70,000 acres under cultivation—many with trademarked Navajo Pride brand agricultural products. In addition, NAPI offers beneficial leasing opportunities for other agricultural producers and currently has lease contracts with Navajo Mesa Farms, Pumpkin Patch Fundraisers, and others. There are also significant processing plant opportunities including an industrial park, which is divided into five to ten acre parcels. NAPI now operates a popcorn facility and a bean plant that packages and ships dry, edible pinto beans. NAPI also operates a potato cleaning facility that operates nearly around the clock and ships NAPI-grown potatoes across the country.

To bring value-added to the potato operation, NAPI is laying the groundwork for the construction and operation of a potato processor and french-fry plant to serve restaurants, retailers, and wholesalers in the region and across the country. Other potential opportunities from these business sites would include russet and chipper potatoes, carrot products and cold-packing vegetables and lettuce. NAPI lands are also leased to sheep and cattle owners for both winter grazing and summer pasture and we believe these activities can be expanded significantly in the years to come.

Irrigation Infrastructure Rehabilitation

As with any commercial enterprise, NAPI faces numerous challenges in its desire to increase revenues and create jobs in the Farmington area. High energy costs, lagging consumer demand, and lack of credit are all contributing to slower growth and profitability for NAPI. The most immediate challenge, however, is one that can be overcome with the stroke of a pen by Secretary Salazar. Some history is in order before discussing this issue.

Congress first authorized construction of the Navajo Indian Irrigation Project (NIIP) in 1962 with 1976 seen as the date of completion of the project. The NIIP legislation implemented an agreement negotiated among the Navajo Nation, the State of New Mexico, and the United States under which the United States committed to construct and maintain an 110,630-acre farm on roughly the same time frame as the San Juan-Chama Diversion Project ("Diversion Project"). The Diversion Project was completed on-schedule and now serves the population of the Rio Grande Valley yet the NIIP languishes for lack of Federal funding and the commitment of the Interior Department to fulfill the obligations it assumed decades earlier.

NAPI is the instrumentality charged with operating a commercial farm on NIIP lands. Forty-seven years after enactment, the NIIP is only 70 percent complete. For the past 8 years, Federal funding for both construction and maintenance of the NIIP has not been forthcoming. This lack of Federal funding risks the integrity of NAPI's irrigation infrastructure as well as the viability of NAPI's operations for years into the future.

Five months ago, NAPI and the Navajo Nation reached consensus that, as a one-time matter, $7.3 million in Federal construction funding already appropriated for NIIP in Fiscal Year 2008 should be re-programmed to enable NAPI to rehabilitate the center pivots that are so crucial to its operations.

In addition, the Bureau of Indian Affairs—Navajo Regional Office agrees with the urgency of the irrigation infrastructure situation as well as the proposed re-programming of funding to rectify this situation. I can assure the Committee that the Appropriations Committees in both the House and Senate as well as the New Mexico delegation have been apprised of the re-programming and have indicated their willingness to support it.

Conclusion

I thank the Chairman for the opportunity to discuss these matters and would be happy to answer any question you might have at this time.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO HON. KEN SALAZAR

1) **I understand that you attended a meeting with tribal leaders on the day before the inauguration prior to being officially confirmed as the Secretary of the Interior. First, I want to commend you on meeting with tribal leaders even before you were officially confirmed as the Secretary of the Interior. Second, you stated at that meeting and indicated today that the "first Americans will have their place at the table in the Obama Administration and the Department of Interior."**

   In the past, some tribes have felt a lack of government-to-government consultation at the Department of the Interior on the policies that directly impact their tribal governments and their people. In what capacity do you envision tribes having a seat at the table while you are Secretary of the Interior?

   Answer: I was honored to meet with tribal leaders at a summit hosted by the National Congress of American Indians (NCAI) and the National Indian Gaming Association (NIGA) prior to being confirmed as Secretary of the Interior. American Indians and Alaska Natives will have a seat at the table under the Obama Administration. Not only will President Obama appoint a White House advisor for Indian issues but I will be recommend filling several top Interior positions with Native Americans.

   I am committed to having the Department engage in meaningful government-to-government consultations with affected tribes on matters of importance to them.

2) **You have listed as one of your priorities, reestablishing the trust relationship that exists between the Department of the Interior and tribal governments. How do you view the Department's trust responsibility toward tribes and how do you intend to ensure that this relationship is maintained as a Department priority?**

   Answer: The Department's trust responsibility toward tribes is important to me. I will work with the incoming Assistant Secretary for Indian Affairs and the incoming Special Trustee for American Indians on continuing to make the trust responsibility a priority.

3) **You have indicated that you would seek to resolve litigation related to DOI management of trust lands and assets. Past Secretaries of the Interior have been unable to settle ongoing litigation related to the Cobell litigation and have also found that this issue took much more time and resources then they anticipated prior to becoming Secretary of the Interior.**

   Do you have a plan for how to approach the trust reform in a manner that could potentially bring this ongoing litigation to a close while ensuring that this issue does not overwhelm your other priorities for tribal governments?

Answer: The *Cobell* litigation is one of the most complex lawsuits that the Department of the Interior has ever faced. Past attempts by both Congress and the Clinton and Bush Administrations to craft a settlement have failed. I assure you I will make it a high priority to resolve this decade plus-long litigation and will work with the incoming Solicitor, Assistant Secretary for Indian Affairs, and the Special Trustee for American Indians on this issue and trust reform in general.

4) **Indian Affairs is impacted by nearly every Department in the Administration. For instance, the Department of Justice along with the Bureau of Indian Affairs is responsible for reservation law enforcement. The BIA jointly administers reservation roads construction with the Department of Transportation, and the Bureau of Indian Education partners with the Department of Education to improve Indian education.**

   As the central Agency responsible for Indian policy, can you tell me what efforts you envision to improve coordination and cooperation among the Departments and with Indian Tribes? Are you willing to consider leading an effort that will bring together Cabinet level officials with tribal leaders to address concerns facing Indian Country?

   Answer: The Department of the Interior will continue to coordinate at every level with its sister agencies on issues of importance to Indian Country. Coordinated cross-departmental federal participation in government-to-government consultation is occurring at all levels. In addition, tribal liaisons within the Departments are identifying opportunities to work together to effectively improve consultation on join projects.

5) **As you know, the backlog for new construction and repairs of Indian and BIE Schools is staggering. The Office of Inspector General found that the dangerous conditions present at many of these schools causes and immediate health and safety risk to students and faculty. What is your plan to address these issues so that Indian children can go to safe schools?**

   Answer: The fiscal year (FY) 2009 budget provides $115.376 million for school construction.

   Despite significant progress in correcting school deficiencies, more than 70 schools remain in poor condition. The funds included in the American Recovery and Reinvestment Act as well as the funds provided in the FY 2009 Education Construction Program will permit us to continue to make progress in reaching our goal of having all schools in acceptable condition. I have challenged Indian Affairs to review the existing Education Construction Program to insure that we can meet our goal within a reasonable time and I look forward to the opportunity to work with the Committee in doing so. It is important that every student be afforded an opportunity to achieve academic success in a school that is conducive to a positive learning environment in a culturally significant setting.

6) **As you are aware, the Department's Inspector General issued a Flash Report this week raising concerns about adequate internal controls in administering the Indian Reservation Roads Program at one of the BIA's regional office. What will you do to address the concerns raised in the Flash Report? In addition, what steps will you take to ensure stringent oversight of all BIA programs receiving Recovery Act?**

Answer: The Bureau of Indian Affairs requested the Office of the Inspector General investigation that led to the Flash Report and is moving aggressively to correct the conditions cited in it. We will implement additional internal controls that we believe will further strengthen our oversight of the Indian Reservations Roads Program. The Bureau of Indian Affairs is currently implementing a corrective action plan to address deficiencies within the Flash Report and to comply with the reporting requirements.

We need swift, responsible implementation of the Recovery Act. The President has made a commitment to transparency and accountability to the American people for this investment and I am determined to ensure our efforts adhere to those guiding principles. To ensure responsible implementation of the Act, I have established a Recovery Act Task Force that includes the leadership of Interior bureaus to determine which proposed projects should be funded. I have also appointed a Stimulus Czar to oversee Interior's responsible implementation of the program.

7) **The federal government, acting through the Department of the Interior, has a trust obligation to protect the water rights of Indian tribes. In many places these water rights went unprotected as non-Indian communities developed water for commercial, residential and agricultural use. The Department has an Indian Water Rights Office which has significant responsibilities to reach water settlements with Indian tribes to quantify and ultimately protect Indian water rights. In many cases, providing needed water supplies.**

In the prior Administration, however, it appeared that the Department took on an adversarial position in reaching settlements for the very water resources it was to protect. The Department, working with the Department of Justice, appeared begin basing its position in Indian water right settlement negotiations solely on the litigation risk to the federal government. This appeared to set aside the long-standing water rights settlement criteria. The goals set out be the criteria include avoiding the direct and indirect costs of litigation; resolve potential damage claims the tribes may bring against the United States for failure to protect trust resources, or against private parties for interference with the use of those resources; act consistently with the federal trust responsibility to tribes; and avoid the costs associated with senior tribal water rights displacing non-Indian water users.

In implementing the Indian Water Rights Office in your Department, what do you intend to do to more fully reflect the federal government's responsibilities to Indian tribes?

Answer: The settlement of Indian water rights is personally important to me. I have spent much of my career focused on issues of water in the West. You have my assurance that I and my team will look at the Department's criteria and the overall process for settlement of Indian water rights.

8) **The Native American population is facing a public safety and health crisis due, in large part, to a lack of federal funding. Recognizing this fact, in 2008, Congress authorized $2 billion in appropriations for Indian safety, health, and water projects as part of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008. The Act also required the Attorney General, the Secretary of Interior, and the Secretary of Health and Human Services to establish an emergency plan by July 30, 2009, that addresses law enforcement, water, and health care needs of Indian tribes.**

I understand that you have only been the Secretary of the Interior for a few weeks, but can you say where the Department is in the development of this emergency plan and whether you anticipate the plan will be completed by July 30, 2009?

Answer: I look forward to working with the Committee on confronting the serious problems relating to public safety, law enforcement, health care, and water facilities in Indian country that motivated Congress to authorize funding under this legislation. The Department is beginning discussions with the Departments of Justice and Health and Human Services regarding the process for developing a plan as provided for under the Lantos-Hyde bill.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM COBURN, M.D. TO HON. KEN SALAZAR

1) **Can the federal government meet its commitment to self governance for tribes and maintain the current bureaucratic structure within Interior? Do you believe BIA staffing levels can be reduced, and if so, please cite specific examples?**

   Answer: I will task the new Assistant Secretary for Indian Affairs to work with his leadership on examining its programs to see whether changes could be made to make BIA programs more effective and efficient.

2) **Do you believe that larger tribes have historically enjoyed greater access to BIA and Interior officials, than leaders from smaller, less affluent tribes?**

   Answer: All tribes, whether large, small, affluent, or impoverished, have an equal voice and equal access to the BIA and will continue to do so under my leadership.

3) **Do you believe that the BIA is operating at peak efficiency? If not, which programs within the BIA, if any, do you think can be eliminated because they are ineffective, duplicative, unnecessary or have outlived their purpose?**

   Answer: I will task the new Assistant Secretary for Indian Affairs to work with his leadership on examining its programs to see what changes can be made to make BIA programs more effective and efficient.

4) **President-elect Obama has promised to conduct "an immediate and periodic public inventory of administrative offices and functions and require agency leaders to work together to root out redundancy." When do you plan to start this within Indian programs and when can we expect you to complete it?**

   Answer: I will task the new Assistant Secretary for Indian Affairs when onboard to work with his leadership on examining its programs to see whether changes could be made to make BIA programs more effective and efficient.

5) **Currently all recipients of federal grants, contracts, and loans are required to be posted online for public review. Do you support making all federal assistance including subcontracts and subgrants transparent in the same manner?**

   Answer: I will task the new Assistant Secretary for Indian Affairs when that individual comes on board to work with his leadership to more thoroughly review this issue consistent with the federal government's trust relationship and obligations with Indian tribes.

6) **With respect to tribal water settlement negotiations, do you believe that Congress and previous Administrations have formulated a proper framework to ensure that all settlements are consistent, fair, and final? In particular, how will you ensure**

that any settlement supported by your Department represents a final resolution to water claims?

Answer: The settlement of Indian water rights is personally important to me. I have spent much of my career focused on issues of water in the West. You have my assurance that I and my team will look at the Department's criteria and the overall process for settlement of Indian water rights.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. KEN SALAZAR

1) **Over the past several years the previous administration proposed cuts to several important BIA accounts that fulfill treaty obligations concerning salmon and shellfish. Some of the biggest cuts have been made to the BIA's Natural Resources Management, Rights Protection account, which the previous President's budget cut by $1.8 million in Fiscal Year 2008 and Fiscal Year 2009. By not adequately funding this account and others, such as the BIA's Fish and Wildlife Projects Account, our government is failing to meet treaty obligations in the NW. This is particularly damaging for many Tribal communities that rely on our natural resources for their cultural, economic and subsistence well-being. Can I have your assurance that the attention that has not been paid to these important treaty obligations over the last eight years will be reversed? Will these budgets be restored to levels that are commensurate with the promises made by our government?**

   Answer: I am fully aware of the importance of Pacific Northwest salmon and shellfish to the Tribes in that area. I will work with the incoming Assistant Secretary for Indian Affairs in looking into this matter.

2) **The Assistant Secretary-Indian Affairs is a critical position for Indian country. He or she is the highest ranking official at the BIA. During the previous Administration, at least five individuals held or assumed the duties of the Assistant Secretary. This "revolving door" negatively impacted BIA's ability as a whole to advocate for its priorities within the Department and the Administration. Will you require an upfront commitment of whoever is chosen for Assistant Secretary that they will remain in the post for the duration of the Administration?**

   Answer: I will stress the importance of the need for a long-term continuance in this position, and will expect that the individual chosen to serve in it is committed to serving in it for the long-term.

3) **Executive Order 13175, issued by President Clinton required federal agencies to engage in government-to-government consultations with Indian tribes prior to making decisions that may impact tribes. If you are confirmed as Secretary of the Interior, how do you envision government-to-government consultations being conducted?**

   Answer: I am committed to having the Department engage in meaningful government-to-government consultations with affected tribes on matters of importance to them.

4) **The Acting Deputy Assistant Secretary for Policy and Economic Development and the individual who has assumed the duties of the Assistant Secretary-Indian Affairs recently noted at a meeting of tribal leaders that the regulations governing acquisition of fee land into trust (25 CFR Part 151) will likely be a priority for the next Administration. If the Department intends to revisit the fee-to-trust process,**

will it fully consult with Indian country <u>before</u> issuing a notice of proposed rulemaking?

Answer: The Department of the Interior will consult with tribes prior to publishing a proposed rulemaking for 25 CFR part 151. The Department of the Interior is committed to consulting with tribes on all regulatory changes that substantially affect tribes, to ensure that resulting regulations are as workable as possible.

5) **Senator Murray and I will be introducing a bill to transfer 26 acres of land from the National Park Service to be held in trust for the Hoh Tribe in Washington State. They need this land transfer to protect the tribe from the encroaching Hoh River which threatens to destroy their homes and tribal buildings every year. Ninety percent of the tribe's reservation sits within a flood plain and the whole reservation sits within a Tsunami zone. Will you support this legislation and work to implement it in a timely manner to avoid having the Hoh tribe having to survive another flood season surrounded by and sandbags?**

Answer: My team and I will be happy to review the legislation once it is introduced.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO HON. KEN SALAZAR

1) **I am committed to enacting legislation that will establish minimum Federal standards for all forms of Class II and Class III gaming in Indian country and that provides an independent Federal agency with strong authority to vigorously enforce these standards. This Committee has held numerous hearings on Indian gaming, and Chairman Dorgan and I have spent hundreds of hours in meetings with State and tribal representatives in an effort to achieve an agreement on Indian Gaming legislation. I would be interested in learning your position on this important issue. Will the Administration work with Congress in developing legislation to amend the Indian Gaming Regulatory Act?**

   Answer: Gaming in Indian country has played a significant role in the economies of many tribes nationwide. Gaming revenues are important tribal resources for funding education, healthcare, law enforcement, and other essential tribal government functions. Indian gaming has also created many thousands of jobs for both tribal and non tribal members. As Secretary of the Interior, I will implement the framework established by the Indian Gaming Regulatory Act and promote the government-to-government relationship between tribes and the federal government and continue to work with states and local governments on these matters. My team and I will also be happy to work with you and the Committee on any legislation pertaining to this issue.

2) **When the Indian Gaming Regulatory Act (IGRA) was first enacted in 1988 creating the National Indian Gaming Commission (NIGC), Congress intended that the Commission would be nothing other than an independent regulatory agency outside the authority of the Department of the Interior. However, DOI has recently advanced the position that the NIGC is not an independent regulatory agency, and that the legal opinions of the Commission must have the concurrence of DOI Office of the Solicitor. Given IGRA's original legislative intent, what are your views on this matter and do you believe that the Secretary of the Interior has authority over the decisions of the Chairman of the National Indian Gaming Commission?**

   Answer: The relationship between NIGC and the Department has been the subject of several Memoranda of Agreement over the years. We will continue to examine our relationship with the NIGC.

3) **Do you believe there is any ambiguity as to the respective authorities of the Commission and the Department, and, if so, should that ambiguity be clarified by Congress?**

   Answer: The Department and the NIGC continue to work together to resolve issues regarding respective authorities.

4) **The NIGC continues to promulgate Minimum Internal Control Standards (MICS) for both Class II and Class III operations, but as a result of the 2005 "CRIT" decision, which held that NIGC has no statutory authority to promulgate and**

enforce Class III MICS, a large majority of these types of gaming revenues are not subject to federal rules. While some states actively enforce internal control standards, many have not exercised this authority. In fact, many states rely on the NIGC both to issue and enforce these standards. Would you support amending IGRA to expressly provide the NIGC with authority to actively and judiciously conduct oversight with regard to Class III MICS?

Answer: We will be happy to review the legislation once it is introduced.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JON TESTER TO HON. KEN SALAZAR

1) What is your ultimate goal for improving Indian Country and how will you measure success?

Answer: My goal is to improve the government-to-government relationship with tribes, fully enable tribal self-governance, and empower America's Native American communities by helping address education, law enforcement, economic and energy development in Indian country.

2) Past administrations have created a culture of incompetence at agencies that serve Indian Country. Are you willing to retrain and/or replace employees who don't work hard to improve Indian Country? Did you solicit input from Indian Country about the new Assistant Secretary? Special Trustee? NIGC (gaming commission) Chairman? What/who did you recommend to the President?

Answer: I will task the new Assistant Secretary for Indian Affairs to work with his leadership on ways to make the BIA more effective and efficient. As for the selection of the new Assistant Secretary, the Special Trustee for American Indians, and the Chairman of the NIGC, the President is the ultimate decision maker regarding these very important leadership positions. I can assure you he and I are working hard to nominate highly qualified individuals.

3) Montana has two previously authorized projects and 4 other tribes have or, will have water settlement legislation pending in Congress. Will you help the U.S. fulfill its trust obligation by completing them? Will you ask for and dedicate the resources necessary to complete them?

Answer: Indian water rights settlements will be a priority for me, and I will work with OMB, the U.S. Department of Justice, and the Congress to secure appropriate Federal contributions for Indian water rights settlements.

4) The Little Shell Tribe in Montana highlights my frustration with BIA's administrative recognition process. A brief timeline will help you understand my frustration.

4-28-1978: Congress established the process and Little Shell applied immediately; 6 months before the BIA even created the Office of Federal Acknowledgement (OFA) to administer it.
7-21-2000: After 22 years of gathering and evaluating documentation, OFA published its favorable proposed finding
3-21-2001: Montana Legislature passed a resolution urging the federal government to recognize the tribe
3-1-2007: The Montana Congressional delegation introduced legislation to recognize the tribe
8-1-2007: OFA began active consideration of the Final Determination
7-24-2008: OFA requested and received a 6-month extension

9-25-2008: Director Lee Fleming promised this Committee that OFA would make a final determination by 1/28/09
1-15-2009: OFA requested and received yet another 6-month extension

This decision should not take DOI 31 years! Little Shell is not alone. Are you aware of the issue? Will you improve the process generally, and issue a final decision on Little Shell specifically? When?

Answer: I will work with the incoming Assistant Secretary for Indian Affairs on ways to improve the acknowledgment process. The decision making on the Little Shell petition has taken time not only because of the number of extensions requested by the petitioner, but also because its current membership of 4,336 individuals and has over 150 claimed ancestors, all of whom must be evaluated and verified as descendants of the historical tribe. The regulations provide for a fact based decision making process and the Department must also evaluate evidence of social and political community from historical times to the present.

5) **Public safety in Indian Country is at a state of emergency in many communities, up to 20 times the national rate of violent crime. Even if we can get violent criminals off the streets, we have no place to put them. That is why I cosponsored the Tribal Law and Order Act of 2008. Will you actively participate in passing and implementing the legislation, and dedicate the resources necessary to improve the situation?**

Answer: Public safety in Indian Country is a priority of mine. My team and I look forward to working with you on combating violent crime, which plagues our Indian citizens.

6) **Because of the government's failed Allotment Policy, some reservations have highly fractionated ownership interests. The Crow Tribe is a striking example. To remedy the effects of this policy and encourage economic development on the Crow Reservation, I introduced the Crow Lands Restoration Act with Senator Baucus last year, and again this year. DOI testified in opposition to the bill last year, stating that although it agrees with the intent of the legislation, several technical concerns remain. Will you help address those concerns expediently, so this year's bill can proceed.**

Answer: We would be happy to review your legislation.

7) **Trust Reform/*Cobell*. This case has been before federal courts since 1996 and the parties remain very far away from settlement ($455.6 million to $47 billion). DOI has shifted critical human and financial resources away from fulfilling its trust obligation to fighting its trust beneficiaries. The situation has a negative impact on almost every issue facing Indian Country. The case has lasted too long and the trust management function is critical. The Department is responsible for managing individual money accounts for income derived from grazing, timber, oil and gas, minerals, rights of way and other economic activity. What are your plans for resolving the dispute and implementing reform? What's your timeline?**

Answer: The *Cobell* litigation is one of the most complex lawsuits that the Department of the Interior has ever faced. I also know that past attempts by both Congress and the Clinton and

Bush Administrations to craft a settlement have failed. While I do not have a set timeframe at this time, I assure you I will make it a priority to resolve this decade plus-long litigation.

8) **Renewable energy and other resources as economic development. Indian Country contains a significant portion of our nation's natural resources. Tribes must compete with off-reservation businesses to market these as products. However, Indian Country faces challenges that off-reservation businesses don't, such as DOI lease approval, permits, environmental assessments and appraisals. The additional requirements sometimes put tribes at a competitive disadvantage. How will you help tribes utilize their resources as economic development in a culturally and environmentally sustainable way? Will you help streamline some of these processes to make tribes more competitive?**

Answer: I will task the new Assistant Secretary for Indian Affairs to work with tribes that want to develop their resources. We will also examine the process to see whether efficiencies can be made. Since my appearance before the Committee, the Department launched on March 9, 2009, the new Tribal Energy and Environmental Clearinghouse web page (www.teeic.anl.gov), which will consolidate information on energy development and environmental reviews in one location. This will give both tribes and federal agencies additional tools that will allow us to expedite renewable and conventional energy development on tribal trust land.

9) **Indian gaming? Does it work for all tribes? Does it create more social problems than it helps?**

Answer: Gaming in Indian country has played a significant role in the economies of many tribes nationwide. Gaming revenues are important tribal resources for funding education, healthcare, law enforcement, and other essential tribal government functions. Indian gaming has also created many thousands of jobs for both tribal and non tribal members.

10) Specifics: In your written testimony, you mention wanting to "fight crime", "address deteriorating facilities", "strengthen tribal courts", "work on improving education", "explore energy development", "be a good partner in economic development", "remain committed to creating opportunities", "enable self-governance". I applaud those efforts but, what do those words mean, specifically? Will you submit adequate budget requests to Congress that fully fund, historically under-funded Indian programs? Will you streamline the BIA and BIE to make them efficient and responsive? Will you consult with tribes and implement their suggestions?

Answer: The Department will work within the President's budget to request funds for Indian programs.

As for consultation with tribes, I am committed to having the Department engage in meaningful government-to-government consultations with affected tribes on matters of importance to them. I will work to ensure that our communications with tribes are enhanced during this Administration.

Finally, I will task the new Assistant Secretary to work with his leadership on ways to make the BIA more effective and efficient.

11) Respecting Sovereignty: We repeatedly hear about Congress appropriating funds for programs that serve Indian Country. However, before the money makes it to tribes, the BIA or another agency siphons off a significant share. Can you assure me that you will make a concerted effort to streamline programs to ensure that Congress and tribes get the biggest bang for their buck?

Answer: Indian Affairs provides funds to tribes as agreed to under current formula allocations and 638 contracts and compacts. I will task the new Assistant Secretary to work with his leadership to examine where programs may be streamlined.

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