

**HERMAN DILLON, Sr., CHAIRMAN
PUYALLUP TRIBE OF INDIANS
SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING ON ECONOMIC AND SOCIAL ISSUES
AFFECTING TRIBES IN THE NORTHWEST**

AUGUST 12, 2010

My name is Herman Dillon, Sr. I am Chairman of the Puyallup Tribe of Washington State and I want to welcome the Senate Committee on Indian Affairs once again to the Puyallup Reservation. As is clearly apparent, the Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. Our 18,061-acre reservation encompasses most of the City of Tacoma, but the area is a “checkerboard” of Tribal and trust land, Indian-owned fee land, and non-Indian owned fee land. Our reservation land includes parts of six different municipalities (Tacoma, Fife, Milton, Puyallup, Edgewood and Federal Way). The Puyallup Tribe also provides services for 3,680 tribal members and over 24,000 additional Native Americans from over 345 Tribes and Alaska Native villages in our service area.¹

The Puyallup Tribe has enjoyed remarkable success in the more than forty years since game wardens arrested many of our members for exercising their treaty-protected right to fish on the Puyallup River. These arrests resulted in what many herald as the most significant legal victory for Tribes in modern times: the *Boldt* decision and its progeny. The *Boldt* decision held that the Tribal signatories to the many Stevens Treaties in the Northwest are entitled to fifty percent of the harvestable catch of salmon and shellfish in their usual and accustomed areas. This decision resulted in the revitalization of Tribal communities throughout the Northwest because once our members could earn a living at home fishing and gathering, they came home in droves.

The return of our members required Tribal governments to respond to their most basic needs, which included law enforcement, health care, schools, road and utility infrastructure, and economic development. In these areas, the Puyallup Tribe has also been a national leader. Nonetheless, while we have achieved many successes in the last forty years, we have a great deal that remains to be done.

¹ The City of Tacoma has the sixth highest percentage among U.S. cities of American Indians and Alaska Natives, 3.6% of the total population.

A. Education

I want to begin today by talking about education. We have come a long way since the Puyallup Tribe opened its first school in 1976 in order to address the high dropout rate experienced by our students in public schools. That first school was in a facility that we borrowed from the Tacoma School District. It was through the persistence of many Tribal leaders, including our former Chair and present councilwoman Roleen Hargrove, that Congress provided to us the funding to build this facility that we use now. We completed this facility and opened it to students in 1996.

Today, the Chief Leschi School is the largest of the seven tribal schools in Washington State, and it remains one of the largest in the BIE School System. The School serves approximately 910 students attending pre-kindergarten through 12th grade. We also have more than 60 different Tribes represented in our student body. The current enrollment figures represent near capacity with all classrooms being utilized on a daily basis.

While our basic educational facilities are outstanding, there are aspects of the school's facilities that remain incomplete. In particular, we have an auditorium and athletic fields that still require substantial work—today we must rent and bus our students to practices on other schools' fields. Completing the auditorium will allow us to complement and further our students' academic progress by providing them, quite literally, a stage upon which to shine and demonstrate their talents. Our athletic fields are similarly crucial because at present, our athletes do not have a field of their own and, consequently, we have never possessed a home field advantage. It is well known that participation in sports and other extra curricular activities increases students' investment in their school which often translates into personal and academic success. With no home field advantage or sense of team ownership, our student athletes are missing out on this important component of school life. While our athletes do their best and we are proud of them, we need these facilities so that they can enjoy success on the playing field and understand true school spirit.

We understand the great need for school facilities in Indian Country, including the enormous backlog to ensure that BIA and Tribal school facilities meet even basic safety requirements—we were at that point once. But Congress must understand that until we provide our children with every opportunity to succeed, and demonstrate that we, as a Nation, are willing to invest all our resources to ensure that they will have a better and brighter future, I can promise you that these Indian children will not believe us when we tell them that we want the very best for them. We commend Congress for including Tribal and BIA schools in the legislation to secure teacher jobs. Specifically, the measure

provides \$50 million for BIA-funded schools. This will be important because BIA and Tribal schools have not had any measurable increase in school operating funding in several years.

In the area of reauthorization of the Nation's education law, we endorse the priorities of the National Congress of American Indians and the National Indian Education Association. In particular, Congress must be vigilant to ensure that BIE schools are included in the authorized programs.

B. Law Enforcement

I want to take the opportunity to thank you, Senator Dorgan, for your steadfast leadership in obtaining passage of the Tribal Law and Order Act. This Act will be vitally important to the Puyallup Tribe as we seek to address the public safety needs of our community.

We share law enforcement authority with State, local and Federal governments. Due to the number of governments involved, the checkerboard nature of our land, and the fact that our reservation touches many local jurisdictions, the question of jurisdiction over a specific crime is complicated. The answer depends on who the defendant is, whether the land is trust land, and which local jurisdiction the land is in. The Tribal Law and Order Act will therefore help rectify this complex jurisdictional maze and allow the Tribe to further build on existing relationships in order to meet the law enforcement needs of our community.

As we have testified before, we have 28 active gangs on the Puyallup Reservation. A few of these gangs are Native gangs, and others are national gangs with Native members, while still others are non-Native gangs that operate on or near the Reservation. Regrettably, many of these gang members are teenagers, but we have seen gang members as young as eight years old. These gangs are involved in various criminal activities, including drug trafficking, weapons sales, and turf wars. They are aided by easy access to I-5, which is widely known as a drug corridor. The Puyallup Tribe responded to the gang problem, by establishing a Gang Task Force comprised of the Tribal Police Department, representatives from various Tribal Services Divisions, and community members. The Gang Task Force developed a working definition of a "street gang" and a four-pronged approach to preventing gang activities, which includes: (1) enforcement, (2) intelligence, (3) education, and (4) physical-mental health. This Task Force is celebrated by our many sister law enforcement agencies as being one of the most highly-developed gang response strategies of any law enforcement agencies in the area.

Today, we are preeminently concerned with the threat that drug use and in particular prescription drug use presents to the future of the Puyallup Tribe. Presently, nearly half of Puyallup Tribal members are 17 years old or younger, and one-third of them are under 10 years old. As they grow up, our children face many of the risk factors that lead to unhealthy behaviors including drug use and gang activity, such as poverty (73% of students at our Tribal school qualify for free or reduced lunch), lack of education (the dropout rate for Native students in Washington state is consistently twice that of all students), and family instability (the number of dependency, guardianship and family services cases at Puyallup has almost doubled last decade).

This last winter, federal officials made a significant arrest of a major drug supplier on the Reservation. When this supplier was put out of business, our social service program experienced a major increase in the number of clients seeking drug treatment and prevention services. This taxed all of our programs, including our police force, who worked closely with our family and social services departments to meet the needs of not only the people addicted, but also of their families and most importantly their children. We continue to work with these people as they seek to overcome their addictions and become healthy members again. The provisions of the Tribal Law and Order Act intended to facilitate better coordination among Federal agencies to better address substance abuse with respect to public safety and health will go a long way in assisting with these efforts. However, it is critical that Congress fully fund these efforts so that these programs do not wither on the vine.

In many respects, the Tribal Law and Order Act codified programs and initiatives that the Puyallup Tribe has been implementing for nearly a decade in responding to the needs of our members and community. Now, the challenge is to ensure that Federal agencies, in particular the U.S. Attorneys Office, take seriously the intent of Congress and work with Tribes to implement the Act, while achieving the positive change in public safety that Indian Country deserves. This will require consultation with Tribes, focused dedication by the Federal agencies involved, and regular oversight by Congress. It will also require funding. In this era of severe budget deficits, we understand that this endeavor will be challenging, but the failure to fund these programs will cost the Federal government more in the long run and, even more critically, it could cost Tribes our very future.

C. Economic Development

For decades, the Puyallup Tribe focused on improving the economy of the Tribe and the Region. The Tribe now operates seven businesses, including two casinos, a marina, and four gas stations. The Tribe also leases its industrial and commercial lands in and around the Port of Tacoma to widely varying businesses,

sometimes in unique partnerships, which bring additional jobs and economic activity to the region.

The Tribe is very excited about the opportunity to become part of one of the largest shipping terminals on the Pacific coast. Through the Puyallup Land Settlement Act of 1987, the Tribe received more than 300 acres of land located on the Blair and Hylebos Waterways on Commencement Bay. The tribal port properties are within or adjacent to the Port of Tacoma. In 2008, the Tribe (through its economic development arm Marine View Ventures, hereafter “MVV”) entered into an Agreement with SSA Containers, Inc. (“SSA”) for the development of a new international container terminal facility that, when fully constructed, will be the largest in the Pacific Northwest. Soon after, the Tribe, MVV, SSA and the Port of Tacoma separately entered into a set of agreements that coordinate the development and operation of their facilities, related transportation, and other infrastructure.

This Agreement has created significant business development opportunities for the Tribe and will have tremendous economic benefits to the state and region. Specifically, it significantly increases container terminal handling capacity and creates living-wage jobs. While the economic downturn and overcapacity at all container terminals on the West Coast suggest the project may have a longer development timeline than originally anticipated, the parties’ relationships remain strong and there exists a vibrant commitment to cooperation. However, it is now also clear that in order to take advantage of these opportunities, we need to change the Federal-Tribal leasing law to eliminate some of the bureaucracy from the process. This is why our Congressional delegation introduced S. 2906, which would eliminate the BIA from the process for surface leases for terms of less than 75 years, so long as such leases are approved pursuant to Tribal leasing regulations that have already been approved by the Secretary of the Interior. This authority is essentially identical to the authority that the Tulalip Tribe to our north has maintained for almost thirty years. We thank the Committee for approving this legislation and ask that you work with your colleagues to seek final enactment of this small but important measure.

D. Transportation.

Related to economic development is infrastructure development. The Puyallup Tribe has a unique interest in the reauthorization of the transportation legislation. We must ensure that Congress funds and makes available to Tribes all aspects of inter-modal transportation, including rail, port, trails and roads. We urge Congress to reauthorize the Nation’s transportation programs because they are an important element to securing economic development and security in Indian country.

While we do not own the roads on our reservation as large land based Tribes do, we nonetheless have wide and diverse transportation needs. As you can see, we are an urban Tribe, and although local governments own the roads within our reservation, we still experience the same needs as if we did own them. Using the IRR Program, the Tribe is currently working on the development of a boat ramp/park facility that the Tribe will manage for our fisherman and their families. At the same time, we are currently repairing an unpaved City-owned street for access to our Grandview Learning Center. We are also currently improving a street that is the main access road to Tribal programs and services for our members, and we will complete a safety project for the administrative offices there.

In sum, it is vital for Congress to include the kind of changes proposed by Chairman Dorgan last year for the next transportation reauthorization measure so that we can continue to address our needs. As we understand them, the proposed changes would bring significant and much-needed funding increases for Tribal transportation programs, create new safety programs to address the high rates of traffic injuries and deaths experienced in Indian country, and streamline existing transportation programs and funding mechanisms. Tribal governments, the Bureau of Indian Affairs (BIA) and the Federal Highway Administration (FHWA) can then put the maximum amount of program funds into improving the transportation infrastructure that is so important to tribal governments across the country. However, the Puyallup Tribe opposes any changes to the current funding formula. We fear that unless there is a provision in the next legislation that protects urban reservations like Puyallup's, our Tribe will not be able to adequately address our transportation needs.

One final consideration that we would ask of the Committee in the next reauthorization is to allow Tribes greater flexibility in using their IRR dollars for roads that provide access to treaty protected resources. Specifically, we have about 50 miles of "private" roads that provide the only viable access to Tribal fisheries facilities on the northern portion of the Puyallup River. These facilities require daily and weekly access and they include a fish ladder, rearing ponds, and acclimation ponds. The roads are severely impacted by weather and require regular repair. We have an agreement from the private landowner to use the roads, and we have an MOU providing that once the roads are repaired, they will maintain them. Still, the BIA will not approve the MOU or put the roads on our inventory because they are not considered "public" roads and as a result, we cannot use the IRR funding. We even agreed not to use road mileage to generate additional IRR funding, for we simply wish to use IRR funds to repair these access roads to our fisheries facilities. But the BIA and DOT will not let us to do this, and consequently, these important treaty protected resources are in danger.

E. Health Care

The Puyallup Tribe, as a long-time leader in the area of health care in Indian Country, again extends our greatest appreciation to the Committee for its dedicated efforts in securing passage of the Indian Health Care Improvement Act. The Puyallup Tribe was the first Tribe in the country to take over operation of an IHS facility on Indian lands. This was in 1976. Today, we continue to operate one of the most utilized ambulatory health centers in the country.

While we heralded the success of the passage of the Patient Protection and Affordable Care Act, we again caution that Congress must ensure that Federal agencies properly implement the Act to address the needs and interests of Indian Country. We have already heard that Federal agencies narrowly construe key areas of the law. Specifically, Congress authorized Tribes to participate in the Federal Employee Benefits Program as a mechanism to enable Tribal governments to comply with the employer mandate in providing health insurance for their employees. We also understand that the Office of Personnel Management, without Tribal consultation, has interpreted this provision of the Act to apply only to Tribal employees hired pursuant to an Indian Self-Determination Act contract with the Indian Health Services. This interpretation flies in the face of the clear statutory language and, we believe, the unambiguous intent of Congress.

Finally, as with the Tribal Law and Order Act, in order for Tribes and Indian people to realize the promise of the Indian Health Care Act Reauthorization Act, it is important for Congress to fully fund the programs authorized under the Act.

F. Environment

I will end today talking about something that ties our community together economically, socially and culturally, namely our natural environment and the need to protect the land and resources that are the very heart of our people. The Puyallup Tribe, as a steward of the land and marine waters in the usual and accustomed fish and shellfish areas, has both treaty and Governmental obligations and responsibilities to manage natural resources for uses beneficial to the regional community. As I said in the beginning of this testimony, the ability of our people to make a living by exercising their treaty protected right to fish and gather where our ancestors fished thousands of years revitalized our communities. Today, fishing and gathering activities support almost 80% of Indian families living on the Reservations on the Puget Sound. Thus, if these resources are not available or if they become degraded such that harvesting is unfeasible, 80% of the Indian families on the Puget Sound must find another way to survive. Furthermore, Tribes generate substantial tax dollars from the Tribal taxes levied on the harvests,

but will not receive this revenue if the harvests are no longer available. Consequently, the economic survival for Tribes and Indian people on the Puget Sound is very much dependent on the health of our natural resources.

Thus, we urge Congress to undertake initiatives that support the health of the Puget Sound and that ensure that Tribes are an equal voice at the table, while considering the actions and activities that take place on the Puget Sound.

I thank you for the opportunity to present testimony today.