

Statement of Mike Bongo, Secretary/Treasurer of the Leech Lake Band of Ojibwe

**Field Hearing to Examine Construction and Facility Needs
at the Bureau of Indian Education**

Senate Committee on Indian Affairs

September 11, 2010

Good afternoon Chairman Dorgan, Senator Franken, and Members of the Committee. My name is Mike Bongo, and I am the Secretary/Treasurer for the Leech Lake Band of Ojibwe. Thank you for inviting me to testify today to discuss the Band's long struggle with the Bureau of Indian Affairs (BIA) to replace our high school facility at the Bug O Nay Ge Shig School (High School), which is administered and funded by the Bureau of Indian Education (BIE).

First, I would like to take a moment to thank Senator Franken for his tremendous efforts to assist us in addressing our High School's construction need, including requesting this hearing, and for pushing the BIA to step up to the plate. We share Senator Franken's deep frustration with the Office of Management and Budget (OMB) and with the Department of the Interior (DOI) over their lack of responsiveness to address this problem as well as the difficulties we have experienced in obtaining information about the situation from the BIA.

History of Indian Education

Before discussing the specific needs of the High School, I would like to briefly discuss the history of Indian education in America. As this Committee is well aware, federal laws, treaties, and policies acknowledge the federal government's obligation to provide for the education of American Indian children.

After formation of the United States, Indian tribes ceded hundreds of millions of acres of our homelands to the federal government to help build this nation. In return, the U.S. made

promises to make the resulting reservations permanent livable homes, including providing for the education, health, and general welfare of reservation residents. These treaty promises were made in perpetuity, remain the supreme law of the land, and do not have an expiration date. However, as you will see and hear today, these promises have not been kept, and our children suffer because of it.

Pressing Need to Replace High School Facility at Bug O Nay Ge Shig School

The Bug O Nay Ge Shig School is located in Bena, Minnesota, operated by the Leech Lake Band of Ojibwe and governed by the Bug O Nay Ge Shig School Board. The School serves nearly 300 Native American children in grades K-12 who commute from 14 communities located within five counties within a 70-mile radius of the School. The School was founded in 1975 with 35 Ojibwe students from the Leech Lake Reservation in response to parental concerns that public schools were not meeting the academic and cultural needs of Ojibwe students. Since that time, the School has transformed itself into a magnet school, teaching state-approved curricula with Ojibwe cultural components. Given the educational opportunities the School provides to Native American students, enrollment in the School overall has steadily increased over the years.

The elementary and middle school facilities are in satisfactory condition, but the High School is in dire need of replacement. The current High School facility is a metal-clad pole barn, formerly used as an agricultural building. One-third of the high school facility was destroyed in a gas explosion in 1992. The facility has serious structural and mechanical deficiencies and lacks proper insulation. The facility does not meet safety, fire, and security standards due to the flimsiness of the construction materials, electrical problems, and lack of alarm systems. Further,

the building lacks a communication intercom system, telecommunication technology, and safe zones, which puts students, teachers, and staff at great risk in emergency situations.

Also, the facility jeopardizes the health of the students and faculty due to poor indoor air quality from mold, fungus, and a faulty HVAC system. The facility also suffers from rodent infestation, roof leaks and sagging roofs, holes in the roofs from ice, uneven floors, poor lighting, sewer problems, lack of handicap access, and lack of classroom and other space. These are just a few of the facility's numerous deficiencies. Due to the unsafe and undesirable condition of the High School, many students leave after middle school to attend the public high school. Students are embarrassed about the condition of the High School, resulting in a negative image of the School in the community and a lower matriculation rate.

The High School is on the BIA's list of schools in need of replacement and has exceeded its life expectancy by decades. The BIA categorizes the high school facility as being in "poor" condition. The BIA Midwest Regional Office for the Office of Indian Education Programs compiled a report in 2007, expressing strong concerns about the electrical problems, potential fire issues, and student safety. The BIA Office of Facilities, Environmental, Safety, and Cultural Management had documented the deficiencies of the High School; and the Director of that office, Jack Rever, who we understand is testifying today, toured the high school facility last year. We appreciate Mr. Rever's efforts to tour and to see first-hand the deficiencies and deplorable condition of the High School. We have prepared design plans for a replacement high school facility and estimate the cost to be approximately \$15 million.

While we appreciate Mr. Rever's efforts, in an August 26, 2009 letter in response to a letter from the Minnesota delegation, Secretary Salazar stated that DOI is still working to replace 5 of 14 other schools on a list generated over 6 years ago and must engage in a negotiated rule-

making process that will take at least a year before it can determine DOI's future budget requests for BIE facilities construction as well as the priority of replacement of the High School. The letter also states, "As you point out in the letter, the condition of the Bug O Nay Ge Shig High School does not meet current education or construction code requirements and is among the more than 70 schools funded by the Bureau of Indian Education that are in poor condition." This letter alarms us because it shows that DOI does not have a comprehensive plan of action to address these dire needs even though these schools have been in this condition for a long time. There is an urgent need to replace the High School, and we ask that DOI and the Congress treat it as such, especially considering that the lives of children are at stake.

Urgent Need for Action to address BIE Construction Backlog

The discussion of the construction needs of Indian schools has been ongoing for more than a decade. This Committee has held numerous hearings where the issue of Indian school construction was discussed. Federal officials testify, point fingers, and yet nothing has been resolved.

When we have met with the BIA and OMB over the past couple of years, they each tell us that it is not their agency's fault but the other agency's fault that there is no funding to replace the High School. BIA tells us that they have no money for school construction and to talk to OMB, and OMB tells us that they provide funding to BIA for construction and that BIA is not utilizing the funding effectively. At the end of the day, DOI and OMB are quick to blame each other but provide no solutions, forcing our children to shoulder the burden. Further, it is extremely difficult navigating the byzantine BIA bureaucracy and its layers to obtain school construction information.

This run-around is unacceptable. Section 7101 of Title VII of the No Child Left Behind Act (NCLB) states:

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with . . . Indian tribes . . . toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

In accordance with its obligation to Indian children, the United States must work with us to seek a solution to this problem instead of ignoring the issue and finger pointing.

We recognize that previous Administrations had a hand in creating the BIE construction backlog, which is at least \$1.3 billion; however, looking at the current Administration's funding requests since it has been in office, it seems that – despite statements to the contrary – the need to improve BIE school facilities is not a priority.

Assistant Secretary Larry Echo Hawk testified at this Committee's May 13, 2010, hearing on Indian school safety stating, "The Administration is committed to providing high-quality educational opportunities for the students who are educated in the 183 BIE-funded elementary and secondary schools, consistent with the Government's trust responsibility for Indian education. In order to fulfill this responsibility, it is imperative that the Department provide these students with safe and healthy environments in which to learn." Unfortunately, DOI's budget requests do not match the Assistant Secretary's statements.

The FY11 budget request for Indian school construction funding is \$53 million, a \$60 million cut from the FY10 enacted level of \$113 million. The Administration justifies this proposed budget cut by pointing to Recovery Act funding for BIE school construction needs. However, we all know that one-time funding under the Recovery Act of \$277.7 million for BIE

construction will not address the tremendous backlog and that there needs to be sustained increased funding over multiple years to truly address this need.¹ Looking at the Administration's FY11 request of \$53 million, it only proposes implementing a partial replacement of one school campus and a partial of replacement of one school facility.

These cuts for Indian school construction represent a disturbing trend that spans both the Bush and Obama Administrations and both parties' control of Congress. The enacted levels for Indian school construction over the past 7 fiscal years have steadily and rapidly declined. The FY05 enacted level for Indian school construction was \$263.3 million, the FY06 enacted level was \$208.9 million, the FY07 level was \$204.9 million, the FY08 level was \$142.9 million, the FY09 level was \$128.8 million, the FY10 level was \$113 million, and as noted above, the proposed level for FY11 is an appalling \$53 million.

The Administration's failure to request and Congress' failure to appropriate sufficient funding for BIE school construction is unconscionable in light of recent DOI Office of Inspector General reports finding "severe deficiencies" at BIE schools that "have the potential to **seriously injure or kill students and faculty** and require immediate attention to mitigate the problems."² 1/3 of the 183 BIE schools are in poor condition and in significant need of repair or replacement. Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than 20% are older than 50 years. On average, BIA education buildings are 60 years old, while the national average for public schools is 40 years.

While we understand budgetary constraints, the Administration's and the Congress's

¹ The Recovery Act authorized the issuance of \$400 million in qualified Indian school construction bonds (\$200 million for each calendar year in 2009 and 2010). The bonds provide tax credits to investors in lieu of interest. However, to date, zero dollars have been allocated. DOI indicates that it lacks the authority to establish an escrow account to provide tribes with funding to pay bondholders. We urge Congress to provide this authority to ensure that this opportunity is not lost.

² Department of the Interior Office of Inspector General Flash Report, *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, C-IN-BIA-0008-2007 (May 2007) (emphasis added).

strategy to counter the recession has been to stimulate economic growth through construction projects that create jobs and that provide skills for workers. The replacement of our High School -- and other BIE schools for that matter -- fit perfectly within the economic recovery strategy; however, the funding requested by the Administration and provided by the Congress for BIE school construction does not even make a dent in the construction backlog. Instead, it seems that we are going backwards not forwards in meeting the educational needs of Indian students, which includes providing adequate facilities that foster learning.

As noted above, the United States owes our students the opportunity to attend school in a safe environment that maximizes their educational opportunities. Instead, our students attend high school in a sub-standard, dangerous environment that is not conducive to learning. This affects their self-worth, creates feelings of inferiority, and sends a message to them that their education and even their lives are unimportant. Our hope is that this hearing will shine a spotlight on this problem and that, as a result, the Administration and the Congress will work together to quickly develop a comprehensive plan of action to address the construction needs not only at the Bug O Nay Ge Shig High School but also at all other BIE schools. The federal government's responsibility for the education of Indian people is in response to specific treaty rights; and anything less than full funding of Native education programs signifies increased negligence of its trust responsibility.

Recommendations

Due to the serious health and safety concerns at the Bug O Nay Ge Shig High School, the BIA should ensure that the replacement of the High School is one of its highest priorities.

Further, the United States should address the tremendous backlog in BIE construction. The only way that this backlog can be addressed is if the Administration and the Congress work

together aggressively to not only develop a comprehensive multi-year plan but also to adequately fund its implementation. An example of a comprehensive plan is the Indian Health Service's 5-year priority construction list, which it updates once a year. Even though there is a construction backlog at IHS, at least there is transparency. In addition, IHS works cooperatively with tribes so that they know the status of their health care facilities projects at IHS, which is not the case with the BIA. However, a plan is only as good as its execution, and the Administration and the Congress must commit to implementing it.

Conclusion

As you know, Indian tribes ceded millions of acres in exchange for adequate education, health care, and other basic services. The failure to meet these obligations is jeopardizing an entire generation of Indian children. We thank you for your efforts to ensure that the United States lives up to this solemn responsibility, and look forward to working with you and the Administration to rebuild BIE schools and provide a safe learning environment for our children.