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Statement of the Honorable John L. Berrey, Chairman

Quapaw Tribe of Oklahoma (O-Gah-Pah)

To the United States Senate Committee on Indian Affairs

Oversight Hearing

“Breaking New Ground in Agribusiness Opportunities in Indian Country”

January 17, 2018

Introduction

Good afternoon Chairman Hoeven, Vice Chairman Udall and members of the Committee. My name is John Berrey and I am the Chairman of the Quapaw Tribe of Oklahoma (O-Gah-Pah).

I appreciate the opportunity to appear before you today to talk about agriculture and my Tribe’s activities in these fields. This hearing is very timely and particularly important given the reauthorization of the Farm Bill this year.

Background on the Quapaw Tribe

The Quapaw Tribe is a federally-recognized Indian tribe with a mature, sophisticated government providing a full menu of programs and services to its tribal members as well as to surrounding communities.

The Tribe has also demonstrated the kind of strategic vision and business savvy that has generated employment and incomes for tribal members and others, and has put the Tribe on a path to real economic self-sufficiency undreamed of in years past. In addition to a world-class gaming facility and accompanying resort, the Tribe has launched a USDA-certified, tribally-owned bison and cattle operation to grow, process and market Quapaw products both domestically and, shortly, in the international markets.

A Brief History of the Downstream People

Historically, the Tribe was located in the American southeast, and our name --- “O-Gah-Pah” --- (anglicized as “Quapaw”) means the “people who went downstream” or the “Downstream People.” The Tribe’s homeland for many centuries was near the confluence of the Mississippi and Arkansas Rivers in present-day State of Arkansas.

Not satisfied with its earlier removal and other actions *vis a vis* the Quapaw people, the United States removed the Quapaw, this time to a location along the present-day Oklahoma-Kansas border, where the Quapaw have resided ever since. Under the Treaty of May 13, 1833, the United States set aside a reservation for the Tribe, consisting of 150 sections of land west of the Missouri state line, largely located within present-day Oklahoma, but with some twelve sections of land in present-day Kansas, which became known as the “Quapaw Strip.”

Following removal, the Tribe faced new hardships and mistreatment. The Quapaw resettled themselves, only to have the federal government discover a “survey error” and force many of them to move again. This time, many Quapaws left the reservation, some settling in Kansas and others in present-day central Oklahoma, while others fled to Texas. At the outset of the American Civil War, the United States withdrew the federal troops protecting the tribe, and the reservation—located in a crossroads—became a lawless place.

At the end of the Civil War, the reservation was devastated, and the Quapaws were also unfairly accused of siding with the Confederate States of America. Under the Treaty of February 23, 1867, the Tribe sold to the United States most of the tribal land within the Quapaw Strip. Under the same treaty, the Tribe also sold approximately 18,500 acres in the western part of the reservation to the United States for use by another tribe.

As a result of these forced relocations and treaties with the federal government, the Tribe's present-day reservation consists of approximately 92 square miles.

The Quapaw Tribe's Long Road to Self-Determination

Indian tribes are not only culturally and ethnically unique, they are functioning governments. Through the first half of the 20th century, the Tribe's leadership attempted to avoid increasing federal involvement. In 1956, the federal government forced the Tribe to re-organize as a condition to payment of its claim representing the loss of its land in Arkansas. Since then, the Tribe has been governed pursuant to the "Resolution Delegating Authority to the Quapaw Tribal Business Committee to Speak and Act in Behalf of the Quapaw Tribe of Indians," its primary organic document.

Beginning in the late 1960s, federal Indian policy changed and began to encourage and support Indian self-determination and self-governance. In view of its lack of resources and capital, however, the Tribe's return to self-governance after more than 150 years of federal domination was a long and slow path.

A decade ago, in addition to focusing on generating revenues to fund tribally-provided services to its members, the Tribe's leadership began a legal initiative to regain control of its governmental functions. Under federal law, tribes that meet certain basic criteria have the right to withdraw from federal management the control of their basic governmental functions, including law enforcement, courts, probate, realty, trust services, and others.

I very much believe that the vast array of programs and services offered by the USDA can and should be made available for tribal management through the *Indian Self-Determination and Education Assistance Act* (Pub.L.93-638) or similar legal authority. I can assure you that my Tribe would take every advantage of such an opportunity.

The larger structural barrier Indian tribes have in getting meaningful access to the USDA programs is the fact that the agency has settled on a state-centric method of

operation. Despite good efforts by some in the past, this has led to the agency's unfamiliarity with and reluctance to engage with Indian tribes on par with the states. On this score, I have met personally with Secretary Perdue and we have discussed ways to foster better federal-tribal collaboration.

The Quapaw Tribe Today

The Tribe has succeeded in developing its Downstream Casino Resort, which is one of many initiatives in the last decade to develop a revenue stream to fund tribal governmental services. With the resort and other enterprises, the Tribe has begun funding governmental functions that are providing an unprecedented level of services to its members. The Tribe operates or provides:

- Law enforcement services;
- A Fire and Emergency Medical Services Department, which was one of the vital first-responders after the 2011 Joplin tornado;
- Tribal courts;
- A water utility;
- A tribal library;
- A tribal cultural center and museum;
- Modern day care centers, which serve tribal and surrounding families;
- A tribal wellness center; and
- The Quapaw Counseling Services, which offers free and for-profit substance abuse programs and other forms of treatment.

The Tribe also owns and operates commercial enterprises, including

- Downstream Casino Resort. including the Downstream Q Store;

- Eagle Creek Golf Club;
- Quapaw Services Authority, a construction business;
- Saracen Solutions, LLC, a tribally chartered company developing federal contracting opportunities.

The Tribe, which provided less than 50 jobs in 2002, has become one of the largest employers in the Tri-State area, with the result that it is offering jobs to many tribal members as well as to members of the surrounding community. With its revenues, the Tribe funds not only basic governmental services, but also provides health insurance to all of its some 4,500 enrolled members, and which includes life insurance and death benefits. This, and other services and benefits, have markedly begun improving the quality of the lives of tribal members.

The Quapaw Tribe's Agricultural Activities

The Tribe is very active in the fields of agriculture and agribusiness. We operate a substantial nutrition program for our tribal members, focused on traditional foods and healthy lifestyles.

The Quapaw Tribe's Beef and Bison Processing Plant

In September 2017, the Tribe opened its \$5 million, 25,000 square-foot Quapaw Processing Plant --- the nation's first USDA-inspected processing plant owned and operated by an Indian tribe.

The meat processing facility is part of the Tribe's agricultural programs aimed at community and economic development for the tribe and the surrounding communities. The new plant, equipment, and feed lot were funded through a combination of federal grants and tribal contributions.

Because the Tribe is located in an agriculture-heavy region, the Tribe is intent on building an agriculture-based economy to support local businesses and feed local people.

The Quapaw now have over 5,000 acres of cattle grazing land, by next year 2,000 acres of row crops.

The processing plant is both an outlet for our own bison and beef products, but also an opportunity to take other peoples' product and process it. The plant includes processing equipment, smokers, a test kitchen, packaging rooms, coolers that hold 200 head, a quality control office, as well as a USDA inspector's office and a training area. Currently employing nine, once at full capacity it will employ up to 30 people.

Once the Tribe developed herds of top quality, genetic-registered Black Angus cattle and bison, it was only logical to build the plant to process meat from tribal herds and others. The Tribe uses most of the meat in its restaurants and but also sells beef and bison products through the tribe's Quapaw Cattle Company and at a store located in the town of Quapaw.

The plant serves these objectives, but also collaborates with the University of Arkansas, Oklahoma State University, Missouri State University and Northeastern Oklahoma University as a training facility for their agricultural departments.

The Tribe continues to work closely with Ms. Janie Hipp, the University of Arkansas's director of Indigenous Food and Agriculture Initiative. She has been an advocate for Indian agriculture for many years and helped with the processing plant and other projects.

Conclusion

Improving tribal access to USDA programs is a noble and worthy goal of this committee. But what is upon us is even more significant: the reauthorization of the Farm

Bill this year presents a rare opportunity to restructure the federal-tribal relationship when it comes to USDA programs and services.

In an appendix to this prepared statement, I have included a number of capital and credit-related proposals for the committee's consideration. At this point I would be happy to answer any questions you might have.

Appendix – No Cost Proposals Related to Credit and Capital

Included in the June 2017 report entitled “Regaining Our Future: An Assessment of Risks and Opportunities for Native Communities in the 2018 Farm Bill,” prepared by Janie Hipp and Colby Duren of the Indigenous Food and Agriculture Initiative, are many thoughtful and business-minded proposals for legislative and policy changes to aid Indian tribes take better advantage of agribusiness opportunities. These include the following:

Structuring Loans to Suit the Business. For example, currently the FSA will lend 100 percent the cost of bred livestock. It will then subordinate its lien position to a local commercial lender for annual production costs, increasing the amount of debt secured by the same amount of assets, sometimes by as much as 25 percent. If the first year of operating expenses could be included in the original loan, and amortized over the life of the secured asset, producers would end the year with cash in the bank, allowing producers to take advantage of pricing opportunities on input materials, replacement stock, or expansion opportunities. Such an approach would incentivize operating from available resources, instead of what could be borrowed on an annual basis.

Debt Restructuring for FSA Planning Prices. When commodity price cycles run contrary to the mandated FSA Planning Prices, despite a producer’s inclination to plan conservatively, producers are often faced with choice of accepting a plan based on those planning prices or shutting down their operation. In cases that FSA planning prices are more than 20 percent higher than the actual prices, a producer should be able to restructure their debt in a way that will not count towards lifetime limits on loan servicing.

Socially Disadvantaged Interest Rates. By updating the Socially Disadvantaged Rate (SDR) interest rate for FSA loans from a static number (currently 5 percent) to be indexed to the prevailing rate and set a commensurate proportion of that rate, 50 percent of the standard rate. The current rate was set years ago when the prevailing interest rate was in the double digits.

FSA Food Loan Authority. Under current program guidelines, there is some latitude for producers whose production will take a period to fully ramp up. Initial payments can be made at an 18-month mark rather than within the first year. This same

methodology should be employed for producers wishing to take their raw product to the next step in the value chain.

Remove the FSA Program Graduation Requirement. Due to the general lack of credit availability on and near Indian reservations, it is difficult to access viable credit rates for even experienced producers operating farms and ranches on trust lands. Removing the statutory requirement for producers on Indian reservations to have graduated from FSA programs would allow agriculture operations to be more stable and assist other producers who farm and ranch in areas where credit access is tenuous at best.

Remove the FSA Requirement for Private Credit Denials. The lack of private lending available in Indian Country renders this requirement onerous and unduly burdensome, and it can be overcome by exempting tribal producers from the FSA requirement of obtaining three denial letters from private credit sources in order to participate in an FSA loan program.

Create a Commonly-used Definition of “Land Owned by Indian Tribes.” Currently, there is no common definition of “land owned by Indian Tribes” across all USDA programs, creating inconsistent program access even within programs run by a single agency.

GAO Study and Report on Credit and Access to Capital. In 2001 the U.S. Treasury’s CDFI Fund issued its “Native American Lending Study” which identified a lot of barriers to credit access and capital accumulation. The GAO, or similarly equipped entity, should revisit and update the 2001 study and report into the nature of credit in Indian Country, specifically examining compliance with the Community Reinvestment Act by banks on and near Indian reservations.

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