

STATEMENT
OF
CHAIRMAN MICHAEL B. JANDREAU
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
JUNE 14, 2006

Mr. Chairman, Members of the Committee, thank you very much for the opportunity to testify on the Tribal Parity Act, S. 374. I am Michael Jandreau, the Chairman of the Lower Brule Sioux Tribe. I have been Chairman of the Tribe for twenty-seven years, and served on the Council for seven years before being elected Chairman.

The legislation before you this morning is of great importance to our tribe and our people. I would like to thank Senator Thune introducing the legislation, and Senator Johnson for cosponsoring. I am joined today by members of our Council, other tribal members, and our Counsel, Marshall Matz with the law firm of Olsson, Frank and Weeda.

The Lower Brule Sioux Tribe is a constituent band of the Great Sioux Nation and a signatory of the Fort Laramie Treaty of 1851 and the Fort Sully Treaty of 1865. The reservation is approximately 230,000 acres in central South Dakota. The Missouri River establishes the eastern boundary of the reservation. Historically, the Missouri's

bottomlands provided food, wood for shelter and fuel, forage for cattle and wildlife, and plants utilized for medical purposes.

In 1944, Congress enacted the Flood Control Act, which authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development in the Missouri River Basin. Two of its main-stem dams, Fort Randall and Big Ben, flooded over 22,000 acres ---approximately 10% of the entire reservation and our best bottomland. In addition, it required the resettlement of nearly 70% of the resident population. For the Lower Brule Sioux Tribe, the human and economic costs have far outweighed any benefits from the Pick-Sloan project.

The Congress responded in 1997 with the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act, Public Law 105-132. This legislation has been of enormous benefit to our people. It established a Trust Fund of \$39,300,000 for the benefit of the tribe. With this Fund, and using leverage, we invested over \$27 million in our entire infrastructure. We have built:

- A new community center,
- A tribal administration building,
- A detention center with a courthouse and police department, and a
- Wildlife building.

We have also used the fund to improve tribal housing and employ 250-270 individuals (both youth and adults) in the summer months. In short, the trust fund is allowing us to improve our economy and the quality of life on the reservation in many ways.

The legislation before you today, S. 374, is intended to supplement our existing trust fund. It passed the Senate three times in the 108th Congress, once as an independent bill and twice as an amendment to other bills. All three died in the House. The Parity Act was again reported by this Committee on June 30, 2005, but has yet to come before the entire Senate for consideration.

Mr. Chairman, in all honesty, I am completely baffled by the recent GAO report entitled “Analysis of the Crow Creek Sioux and Lower Brule Sioux Tribes’ Additional Compensation Claims”. It is the most frustrating government document I have read in all of my years as Chairman.

Essentially, the GAO makes two criticisms of the Tribal Parity Act and the approach used by our consultant, Dr. Mike Lawson. First, the GAO criticizes us (and it is, in fact, the Tribes that the GAO is criticizing) for not using “the final asking price”. Second, the GAO is indignant that Dr. Lawson suggests one level of compensation, and not a range. I would like to make several points in response:

1. The Congress never established the final asking price as the standard that must be used for determining what is fair compensation under the Flood Control Act. In a business transaction when two parties are negotiating with equal standing, I can

understand how the last asking price would indicate the true feelings of the parties. That is clearly not the case here. There was no “negotiation”. Our land had been flooded and we were trying to do the best we could. The Congress should look at all of the facts when trying to evaluate the appropriate level of compensation and not be blinded by the last offer.

2. GAO criticizes Dr. Lawson for not providing a range of reasonable compensation levels based upon different policy assumptions, but then the GAO does the same thing and fails to give you, the Congress, a range of possibilities.
3. Beyond the numbers, there is a tone to the GAO report that is deeply disturbing. Dr. Mike Lawson is a nationally recognized expert on the Flood Control Act and the Tribes affected by that legislation. Yet, the GAO does not even mention his name anywhere in the document. Dr. Lawson is a consultant to two sovereign Indian tribes. The GAO has every right to disagree with him, or with me, or with anyone else. But I would hope they also recognize that a mechanical application of a standard formula may not apply in all cases. The tribes are not one size fits all.

Our best land was taken to benefit America. Our Tribe is not seeking charity; we are seeking justice and parity with other Missouri River tribes that have been adversely affected by the Flood Control Act. There has been no one, clear policy decision by the Congress on how to determine what is just and fair compensation for Missouri River tribes. The Tribal Parity Act is not based upon the “highest asking price”. And we are not seeking Parity with the Santee Sioux, who has received the highest amount on a per

acre basis. We are seeking what Dr. Lawson, the recognized national expert, believes to be fair and owing from the United States to the people of Lower Brule. The Congress has the power and the obligation to make a fair policy decision. You are not bound by any one formula or test, as, I believe, the GAO would have you believe.

This legislation would, if enacted, add to our trust fund and allow us to aggressively attack the many human challenges we face on the reservation. Further, we could more adequately build our infrastructure to the point that it would be possible to attract a private sector economy.

As you know, sovereignty is key to tribal existence. But, in the long run, for sovereignty to survive, there must be some type of economic sovereignty as well. We must develop a private sector economy and jobs for our people. The legislation before you will allow us to do all of that. We will be able to improve education, health care, housing, transportation, the justice system, and so many other services.

As much as we need this legislation, let me stress that we are not asking for a handout. This legislation is intended to provide more complete compensation for the loss of our best land and other costs suffered by the Tribe. The Army Corps of Engineers has estimated that the Pick-Sloan project's overall contribution to the U.S. economy averages \$1.27 billion per year. The Tribal Parity Act must be seen in that context.

The Lower Brule Sioux Tribe is making great progress. Our unemployment rate is the lowest of any reservation in South Dakota, but it is still much above the national average. My goal as Chairman is to see Lower Brule fully participate in the United States economy while maintaining our heritage and identity. It is very painful for me to read The World Is Flat by Thomas Friedman and realize that globalization is passing over Lower Brule and the Indian reservations of the United States. China and India, for example, are revolutionizing their economy while Indian reservations are essentially ignored.

The reservations are a part of the United States, but we are not a part of the US economy. Mr. Chairman, I am not here today to outline a comprehensive agenda for Lower Brule or for tribes, generally. I am here to say that the Tribal Parity Act is the essential next step to improving the quality of life at Lower Brule and it is completely justified. We urge you to finally file the Committee report and bring it to the floor of the Senate as soon as possible. It has been exactly two years since I first testified on the Parity Act. Our Tribe needs and deserves the benefits of the Tribal Parity Act, as adjusted to reflect a more accurate mathematical computation.

We urge the Committee to amend S. 374 to provide \$129,822, 085 of additional compensation to Lower Brule and \$69,222,085 of additional compensation for Crow Creek. These figures are far lower than our highest asking price and are lower than the amount provided to the Santee. It is, in short, fair and just compensation for the complete

disruption to our reservation life and the taking of our best bottom lands. Thank you. I would be pleased to answer any questions.