STATEMENT
OF
DR. ROBERT W. MIDDLETON
DIRECTOR, OFFICE OF INDIAN ENERGY AND ECONOMIC DEVELOPMENT
OFFICE OF THE ASSISTANT SECRETARY- INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
AT THE OVERSIGHT HEARING
BEFORE THE COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE
CONCERNING ECONOMIC DEVELOPMENT IN INDIAN COUNTRY

May 10, 2006

Good morning, Mr. Chairman and Members of the Committee. My name is Bob Middleton, and I am the Director of the Office of Indian Energy and Economic Development at the Department of the Interior. Thank you for inviting me to address Economic Development and more specifically, our recent labor report and unemployment in Indian Country.

Congress mandated the biennial collection and publication of statistics on Indian populations residing on Indian lands and the associated Indian labor force in the Indian Employment, Training and Related Services Act of 1994.

The Department of the Interior believes that Indian workforce information is a critical indicator of an Indian community's well-being or distress. For example, the employment rate is an indicator of community well-being. Likewise, the unemployment rate or the rate a community's population is employed below poverty guideline is an indicator of community distress.

Information on Indian employment is also a critical social-economic factor in the Department's program planning and execution and can be used as proxy measures of the social-economic conditions in a given Indian community. For example, an Indian community that has a very high unemployment rate usually tends to have higher public safety and crime rates, increased alcohol and drug use rates, higher public assistance rates, decreased rates of access to health care, and increased rates of domestic violence. This allows us to use the unemployment rate as a long-term social and economic services demand indicator.

The biennial Indian labor force report is the only known comprehensive and certified accumulation of data on tribal enrollments, service population, workforce, and employment. It is used for a wide range of purposes by an equally wide range of users, including State and local governments, private sector organizations, and tribes for the purpose of designing, planning and developing Indian programs; budget planning; determining financial assistance to Indians; grant submissions; and other needs.

The labor force report is also used by tribes, in combination with a community profile, as a positive marketing tool, showing governance stability, efficient governing institutions, effective community support systems and mechanisms, and solid community support, which demonstrates the community is a good place to locate businesses, put venture capital, or capitalize on an untapped labor pool.

It is important to note when viewing the BIA labor force report that the unemployment rate reported is calculated differently from what Americans commonly associate with the monthly unemployment rate reported by the Department of Labor for the population in general by law. While the Department of Labor bases its rate on the number of unemployed actively seeking employment, the labor work force report identifies the total number of Native Americans 16 years old and older who are unemployed whether they are seeking employment or not. For example, this means that someone 80 years old and not employed is counted as unemployed in the labor report. If the Department of Labor used the same measure, the unemployment rate for the general public would be several orders of magnitude higher than what the Department of Labor is currently reporting.

However, no matter how one analyzes the data in the labor report, there is no dispute that reservation unemployment has been too high for too long. The 2000 Census tells us that real per capita income of Indians is less than half of the U.S. level and that Indian unemployment is more than twice the U.S. rate.

Chronic joblessness seems endemic to many parts of Indian Country, resisting all antidotes, plaguing one generation to the next. In many cases, the sheer remoteness or isolation of some reservations is an enormous hurdle that tribes must overcome to get capital flowing into their reservation rather than out of the reservation. There is no doubt that this is certainly a factor in trying to establish markets for goods, services, on-reservation businesses or off-reservation workforces. The geographic limitations of some tribes, however, can be mitigated to some extent by technology. However, there are not many remote tribes that have been able to establish present-day technology, such as high speed broadband internet access, which can be the basis for many types of business development.

Although the remoteness of many reservations from markets and services might provide a partial explanation for high unemployment rates, it does not explain why Indian joblessness lingers on despite good economic times in adjoining non-Indian communities.

For example, according to Census data, Buffalo County, South Dakota is America's poorest county. About 2,000 people live there. The median household income is less than $13,000 and the unemployment rate is at worse than Great Depression levels. Yet, just to the east of Buffalo County is Jerauld County, which is similar in size and population. There, the median household income tops $30,000, and the unemployment rate is a scant 3%. A recent article by John J. Miller in the *Wall Street Journal* noted the disparities between these neighboring counties and found that the main difference between them is that the Crow Creek Indian Reservation occupies much of Buffalo County. As Miller notes, “The place is a pocket of poverty in a land of plenty.”

Like virtually all Americans, we are saddened that any communities within the boundaries of the United States should not be able to share in this Country's success and persist as "pockets of poverty." And we are not willing to accept that they should remain so.

While success in improving the economies of these Indian communities has been uneven, we believe that we do have a clearer understanding of how they became "pockets of poverty" and why reservation unemployment is different than unemployment elsewhere even though unemployment is calculated differently by BIA and the Department of Labor.

One thing we know for certain is that "one size fits all" does not work to address the unemployment and under-employment issues on reservations. That is why we are taking a focused approach to work with individual tribes to identify and nurture economic development opportunities that fit best with a tribe's resources, workforce, markets, and culture.

For the most part, tribal members have a hard time creating and sustaining jobs because of a number of roadblocks. In addition to the obstacle of remoteness, these include (1) collateral to obtain capital; (2) access to financial services; (3) technical know-how to access what capital is available; and (4) the legal, corporate, and judicial infrastructure necessary to assure participation by outside investors.

I want to discuss, first, the nature of those roadblocks. Then, I would like to describe some significant resources development opportunities that we are fostering in Indian Country. Development of those resources can translate into jobs. And, finally, I want to tell you how our former Secretary Gale Norton and Associate Deputy Secretary James Cason established our new Office of Indian Energy and Economic Development to promote the Department's focused approach to assist individual tribes to overcome these economic obstacles, develop and market resources, foster new economies, and create employment.

Historically, it has been tougher for Native Americans to obtain financing than perhaps any other group in the U.S. -- not because they are any less credit worthy, intelligent, industrious, or ambitious than the rest of us -- but because they often do not own land in fee to offer as collateral for loans and lenders are reluctant to enter into financing agreements because Tribes are sovereign and lenders see limited venues to resolve disputes with Tribes in court. Most Indian land is held in trust for tribes and Indian individuals. Trust lands cannot be used as collateral for a mortgage or loan because the lender has no ability to foreclose on them and then sell the land.

This inability to put up land as collateral for business loans is not the only financing limitation Indians seeking to start businesses and create jobs must face. Lack of access to financial services is also a problem. In 1999, the U.S. Department of the Treasury conducted a series of workshops, surveys and roundtables to examine Indian access to capital and financial services. 24% of the Native Americans interviewed told the government that business loans were “impossible” to obtain. Treasury’s report estimated that the “investment gap” between Native American economies and the U.S. overall totaled $44 billion. The report also found that although 85% of financial institutions on or near Indian lands offer deposit accounts to Native American residents, only half of those institutions provide personal consumer loans.

When would-be Indian entrepreneurs can find a lending institution that will consider them for a business loan, many of them lack the expertise to put together the business plan, which includes market analyses, return on investment calculations, and capital investment and life cycle analyses, necessary to close the transaction and obtain financing.

Ready access to investment capital has enabled many generations of other Americans, including recent immigrants, to launch small businesses. According to the Small Business Administration in their *2005 Small Business FAQ*:

· Over the past decade, small business net job creation fluctuated between 60 and 80 percent (of total jobs),

.

· Small businesses generate more than 50 percent of the nonfarm private gross domestic product (GDP).

· Small businesses employ half of all private sector employees.

But this has not been the case for Native Americans. According to a 2003 report by the Kauffman Center for Entrepreneurial Leadership, "Native Americans owned and started the *fewest* small businesses of all minority groups in the U.S."

Without capital, there is no enterprise; without enterprise, there are no private sector jobs.

In addition, the legal, corporate, and judicial infrastructure of some tribes increases the reluctance of non-Indian companies to invest in Indian Country or participate in joint ventures because they view reservations as risky places to do business. This reputation is perpetuated because many reservations have not adopted uniform commercial codes, created independent court systems administered by trained jurists, or found ways to establish continuity of tribal business policies through sometimes frequent leadership changes.

Too often, the management of tribal corporations interlocks closely with tribal government leadership. As a consequence, the management of these corporations can shift with each tribal election, eroding business certainty and investor confidence.

However, some tribes have recognized the need for government policy stability, certainty and continuity in the business environment, and transparency in rectifying business disputes. They have provided continuity in tribal leadership, separate business development organizations, and effective tribal laws and codes. Because of this they have shown significant recent success.

Native Americans want to honor tribal traditions and culture while achieving better lives for their families. And they are willing to work hard to accomplish that goal, given the opportunity. Although using the land itself for collateral may not be the economic key, some of the brightest prospects in the Indian economic landscape may be the natural resources on and under that land.

The Department of the Interior recognizes these issues and has committed both budget dollars and personnel to addressing each of these roadblocks to economic progress in Indian Country. Secretary Norton signed a Secretarial Order in April of 2005, establishing an Office of Indian Energy Resources Development with the intent that this office would address economic development issues through the facilitation of energy and mineral development.

However, it quickly became apparent that this was only one part of a solution to foster economic development in Indian Country. Following discussions among Deputy Associate Secretary Jim Cason, Acting Principal Deputy Assistant Secretary Michael Olsen, and Director of BIA Patrick Ragsdale on how to approach these roadblocks, it was decided that the Department needed to provide a more holistic approach to initiate and nurture economic development for Tribes and individual Indians.

Subsequently, the Office of Indian Energy Resource Development was renamed the Office of Indian Energy and Economic Development. Important program components were combined to form an office that could take a broader approach to addressing the roadblocks to economic success in Indian Country. The office has been functioning as a unit for the last nine months, and we are currently finalizing changes to the Departmental Manual that will provide more permanence for the new office.

Given the vast job creation potential of the Indian Country resources I have described, it is natural that, when the Department formed the Office of Indian Energy and Economic Development, that a number of programs were linked together as a team. These programs include those whose main focus is Native American economic development. These are:

- The Division of Capital Investment.
- The Division of Economic Development.
- The Division of Workforce Development.
- The Division of Energy and Mineral Development.

Under the direction and management of the Office of Indian Energy and Economic Development, these four divisions are helping tribes and tribal entrepreneurs obtain capital for job creation, implement infrastructure reforms conducive to economic progress, and develop resources prudently and in a manner beneficial to tribes.

Deploying all of our Indian economic development specialists onto one team certainly makes sense organizationally—but, I believe it will also make us far more effective.

The **Division of Capital Investment** (DCI) operates the Loan Guaranty Program. Congress enacted the Indian Financing Act of 1974 (P.L. 93-262) to assist tribes to become self-sustaining and to improve their standard of living. The Act as amended established the Loan Guaranty Program to help Indians gain access to capital by having the federal government guarantee loans from the private sector to promote economic development for tribes, individual Indians, and Alaska Natives. Congress passed this law specifically to provide tribes with capital on a reimbursable basis to help them start business enterprises and manage and develop their own natural resources. This year, the DCI will be guaranteeing $117 million in loans by private lenders to Indian and Alaska Native enterprises. This program is bridging the investment gap I described earlier in my testimony and, in the process, jumpstarting many Indian businesses that, in turn, are creating new jobs.

The **Division of Economic Development** (DED) is helping tribes obtain the technical know-how necessary to launch new enterprises. It administers and funds feasibility studies for proposed tribal businesses. Where studies funded by these grants show that proposed projects are economically viable, those studies can become a basis for attracting private capital. It is also funding the preparation of detailed strategic development plans for tribes, working with economic development experts from academia and the private sector to guide tribes down the most profitable, sustainable, and prudent development paths.

In addition, DED's Native American Business Development Institute has established partnerships with leading graduate schools of business in which prominent business educators and their students prepare business plans for tribal enterprises and projects. It also operates a Native American Energy and Mineral Institute to educate tribal leaders on management and marketing of tribal energy and mineral resources.

The Division of Economic Development is also assisting tribes to improve their business and legal infrastructures by encouraging them to expeditiously adopt and implement uniform commercial codes based on the Model Tribal Act authored in June, 2005 by the Native American Work Group of the National Conference of Commissioners on Uniform State Laws. DED is currently administering code development grants to the Chippewa Cree Tribe, Crow Nation, and the Shoshone and Arapaho Tribes of the Wind River Reservation. Tribes likely to seek DED grants for code development include the Sac and Fox Nation of Oklahoma, Confederated Tribes of the Warm Springs Reservation, Seminole Tribe of Oklahoma, and the Oglala Sioux Tribe.

[Can you give some real examples of businesses opening on reservations?]

We believe that adoption of these codes will ensure predictable and fair enforcement of rules so that reasonable commercial expectations of outside investors and joint venture partners can be fulfilled. Finally, DED is training tribal enterprises and entrepreneurs for government procurement and "Buy Indian" opportunities.

The **Division of Workforce Development** (DWD) implements Public Law 102-477 program, or, the "477 Program" as it is known. The 477 Program allows tribes greater flexibility in the management and use of funds provided by the Federal government for employment, training and related services. The law, as amended, also permits tribes to use up to 25% of their federal monies for economic development and job creation purposes.

This program allows tribes to combine 12 different federal programs from three Federal Departments (Labor, Health and Human Services and Interior) into a single program to help Tribes provide the education and training necessary for their members to obtain meaningful employment.

This "one-stop-shop" significantly streamlines the Federal process and increases the efficiency of delivering needed services. Combining these programs also reduces the administrative costs to Tribes by having a single plan, budget, and reporting system. This allows Tribes to focus additional resources on the unemployed and underemployed tribal members.

The **Division of Energy and Minerals Development** (DEMD) is staffed by petroleum engineers, geophysicists, geologists, and renewable energy specialists who provide technical assistance to tribes who chose to develop their energy and mineral resources. This includes assistance to identify the extent and value of the resources, assistance in negotiating beneficial working agreements with developers, and guidance through the often complex and time consuming regulatory approval process.

I would like to spend a few minutes to talk a little more about the energy and mineral potential of Indian Country. Absent gaming opportunities, energy and mineral development represents the best near-term solution for many tribes to promote economic development for their tribal members.

The Office of Indian Energy and Mineral Development has been given the responsibility for promulgating and implementing the regulations for Tribal Energy Resource Agreements, as authorized under Title V of the Energy Policy Act of 2005. Use of these TERAs could provide significant flexibility for tribes that choose to develop their energy resources for economic purposes.

The economic potential of energy and mineral resources in Indian land is significant. It is estimated that Indian lands hold the potential to produce over 5.3 billion barrels of oil[1] and 37.9 trillion cubic feet of natural gas.[2]

---

[1] U.S. Geological Survey (USGS), *Circular No. 1118*, "1995 National Assessment of United States Oil and Gas Resources." DEMD's assessment of Indian gas and oil resources was based largely on this study, which estimated undiscovered oil prior to 1995. Many technological breakthroughs have occurred in oil

These estimates of Indian oil and gas are based in part on the amount of oil and gas that the U.S. Geological Survey believes is *technically* recoverable from Indian lands.[3] Because much of Indian land has not seen the same extent of exploratory activity and data collection as adjacent Federal, State, or private land, some petroleum geologists believe that the resource estimates may, in fact, be understated. In addition, Indian Country holds another 53.7 billion tons of recoverable coal.[4]

Renewable energy resources are abundant also. For example, Indian Country encompasses some of the premier wind regimes in the U.S. and has the potential for generation of 535 billion kWh per year (total U.S. electric generation in 2004 was 3,853 billion kWh).[5]

Almost all Indian lands evidence some form of biomass energy potential, from woody biomass from forestlands and bio-diesel and ethanol production from agricultural and silviculture waste to the growing and use of energy crops. We have identified 118 reservations with a high potential for biomass production.

Tribes in Nevada, California, Oregon, North Dakota, and South Dakota, and pueblos in New Mexico also have potential to tap geothermal energy resources, while Indian lands in the Southwest and West present opportunities for solar energy development.

---

exploration and development since 1995. Therefore, DEMD supplemented the USGS estimates with a methodology that acknowledged new oil recovery techniques, such as in-fill and horizontal drilling.

[2] *Id*. In addition to this USGS estimate of undiscovered Indian natural gas, DEMD relied upon *Executive Summary – Assessment of Undiscovered Oil and Gas Resources of the Uinta-Piceance Province of Utah and Colorado*, USGS Uinta-Piceance Assessment Team, USGS Digital Data Series DDS-69-B, 2002; *Natural Gas Resources of the Greater Green River and Wind River Basins of Wyoming, Final Version* – February, 2003, U.S. Department of Energy, Office of Fossil Energy, National Energy Technology Laboratory; *Rocky Mountain Giants*, Colorado School of Mines, Department of Geology and Geological Engineering, M. Ray Thomasson and Fred Meissner; and *1995 Assessment of United States Oil and Gas Resources – Results, Methodology, and Supporting Data*, USGS Digital Data Series DDS-30, Release Two, 1996.

[3] The USGS uses "play analysis" to estimate these volumes. A "play" is a set of discovered or undiscovered oil and gas accumulations that exhibit nearly identical geological characteristics. The utility of "play analysis" is that it correlates hydrocarbon accumulations to known geological features, rather than to resources that are not technically recoverable, such as oil from oil shale or gas from hydrates. The volumes derived are calculated from the percentage of each USGS oil and gas play occurring on Indian lands. Based on a probability model, the amounts were calculated for undiscovered oil and gas at a 50-percentile probability of recovery. Oil and gas units were reduced to "Barrels of Oil Equivalent," based on energy equivalence in BTUs, a standard industry practice.

[4] *Id.*, USGS *Circular No. 1118*. Increased coal supplies may quicken conversion of many electric power plants now fueled by natural gas, thus freeing up natural gas stores for other uses, including home heating. Over 90% of power plants built in the last five years are natural gas powered ("Natural Gas Facts," www.api.org). However, mine-mouth coal fired power plants on Indian lands could meet future electrical generation demands.

[5] "*Potential Wind Generation From Tribal Lands,*" National Renewable Energy Laboratory, U.S. Department of Energy (DOE). Wind blows in excess of 18 miles per hour across most of the Dakota, Montana, and Wyoming reservations (*World Watch*, "Falling Water, Rising Wind," Bob Gough, July/August, 2005).

Hydrocarbon production in Indian Country has been significant and has much future potential. Nearly two million acres of Indian lands have already been leased for hydrocarbon energy production. These lands account for about 10% of the oil and natural gas production from federal onshore acreage. In 2004 (the last year for which figures are available), over $54 million in royalty revenues was reported for Indian oil production and over $200 million for Indian gas production.[6] As of 2000, these lands had produced a total of nearly 1.7 billion barrels of oil (valued at $15 billion) and 6,507,217,123 mcf of gas (valued at $8 billion).[7]

However, Indian Country has an additional 15 million acres of still *undeveloped* lands with hydrocarbon potential. These lands are located in sedimentary basins with a long history of hydrocarbon production. Moreover, conventional oil and gas exploration and development that has occurred on Indian lands has generally taken place at shallow to medium depths; millions of acres of such land are relatively under-explored for unconventional and deeper resources.

We have been actively providing technical assistance to various tribes by purchasing and interpreting thousands of miles of 2D seismic data as well as hundreds of square miles of 3D data. These studies have identified numerous prospects, some of which are essentially ready to drill. Some of the prospects still require additional data collection and evaluation to more accurately identify exploratory and development targets

Besides energy development, another, sometimes understated, feature of Indian land that could lead to new jobs is its abundance of sand and gravel. America has a great need for construction grade aggregate and crushed rock, used for construction of roads, buildings, highways and bridges. This is especially acute on the West Coast. The California Department of Conservation estimates that Los Angeles County and San Diego County will run out of permitted reserves of aggregate by 2016; the depletion date for Orange County is 2009; and Ventura County will run out in 2009. Virtually every reservation, and particularly those in California, possesses sand and gravel.

In summary, the Department of the Interior does not consider Indian joblessness to be an inextricable feature of life in Indian communities. We and Tribal Governments grasp the reasons why Indian unemployment persists. We believe that we now have a team in place that will work with Tribes and individual Indian entrepreneurs to aggressively pursue solutions to those root causes preventing economic development in Indian Country.

Thank you again for the opportunity to testify today. I would be happy to answer any questions the Committee may have.

---

[6] *"Reported Royalty Revenue for Fiscal Year 2004,"* Minerals Management Service, U.S. Department of the Interior.
[7] *Id.*.