

Testimony of
The Honorable John Yellow Bird Steele
President of the Oglala Sioux Tribe
Oversight Hearing on Indian Housing
Before
The Senate Committee on Indian Affairs
March 22, 2007 – 9:45 A.M.
Room 485, Senate Russell Building

Good Morning Mr. Chairman:

My name is John Yellow Bird Steele and I am the President of the Oglala Sioux Tribe. On behalf of my Tribal Council and our Tribal members, I would like to thank you for allowing me this opportunity to testify on the important issue of Indian Housing.

Mr. Chairman, our housing needs on the Pine Ridge Indian Reservation are so severe that I have had some trouble figuring out where to start my presentation. I could tell you, for example, that we have a current need for at least 3,000 new homes, and that we desperately need at least 300 of those in the next year, but that would not provide you with a real picture of what we live with every day.

OVER CROWDING

On our reservation, there are hundreds of families who live in overcrowded situations. It is not at all unusual to find a single family home occupied by two elders, their married daughter and her husband, one or two families of married grandchildren and three or four great grandchildren. This results in 10 or 12 people living in a house that is built to house a maximum of four. Now, you don't see this situation reflected in the surveys of our housing entity, the Oglala Sioux Lakota Housing, and in HUD reports, because the adults in this family know that this type of overcrowded situation may violate HUD guidelines and could be grounds for eviction, so they have become very skilled at moving people into hiding whenever our reservation Housing personnel conduct surveys.

Because we lack adequate affordable housing, many newly married couples find themselves living with their parents or other relatives, simply because they have no other place to go. Because we have no nursing home on our reservation, large number of families also have one or more elders living with them, often with serious health problems, and it is not uncommon for our children to share a bedroom and sometimes a bed with one or more of their siblings.

If you have ever shared a room with two or more people, you know what overcrowding does to people over time. The simple lack of privacy places a strain on Tribal marriages, it makes it hard for children to study, it leads to bouts of arguing within the family, it leads to the passage of illnesses from one family member to the next and it gives everyone a general feeling of being

trapped. Furthermore, consider the fact that many of these adults are unemployed and living in poverty and you can begin to see how all of these factors have contributed to our high rates of domestic violence, increased alcoholism, high drop out rates, child abuse problems, low educational achievement by our children, couples marrying at a younger age, a general breakdown of the family unit, and crime. All of this is reflected in our Tribal court records.

LACK OF HOME REPAIR

Many of those same homes lack indoor toilets, good working furnaces, leak proof roofs and good windows. Thus, these homes are often very cold in the winter and extremely hot in the summer. This results in high heating and cooling bills, which adds an additional strain on the already strapped family budget. This in turn creates even more tension in the home.

Presently, we have approximately 1700 HUD financed rental units which are in desperate need of repair and we are presently receiving very little money per year from HUD/ONAP to address these needs. Because existing funding from the Federal Government is obtained from ONAP under a NAHASDA block grant that is based on a federally approved distribution formula, which in turn is based on the 2000 Federal Census, we are not receiving the amount of ONAP funds that we should be receiving based on our true and correct reservation population. Consequently, many of our reservation families receive no home repair and replacement assistance at all. These unserved individuals either live in the wrong type of house or make too much money to qualify for assistance, but too little money to fund the repairs themselves.

As you are well aware, our weather in South Dakota can be very extreme, and a harsh winter can find people nailing blankets to the walls and over the doors just to try to stay warm. Colds, flu, ear infections and other health problems increase dramatically with drafty homes and overcrowding and this in turn increases the demand on our health care providers.

When minor problems, like a leak in the roof or a hole around the window, remain unaddressed water seeps into the structure and results in even further deterioration. Soon a dwelling that needed only a few hundred dollars worth of work starts to need more serious and costly repairs because of structural damage. Effectively, this deterioration results in a total waste of the federal money that was spent to build the home in the first place.

HOMELESSNESS

People from cities in the east often do not realize that homelessness exists in rural areas, especially in areas like the Pine Ridge Indian Reservation. While most of our Tribal families do everything that they can to assist their relatives, the overcrowding situation that I just described greatly limits what they can offer. As a result Mr. Chairman, it is not unusual to find people living in cars and vans outside their family home. For example, one of our staff members and her husband sleep in a van outside her mother's home, because there is no room in the house. They cook on a barbeque grill, shower at work or at school, and for all practical purposes that van has become like the extra bedroom that her mother's house is lacking. A number of our people move continuously between the homes of different relatives living in tents, cars, barns and other shelters just to get by, and the Tribe currently lacks the funds to help them.

This combination of homelessness and overcrowding has resulted in a number of our young people trying to escape by marrying too young, starting to use alcohol and drugs or simply leaving for urban areas like Rapid City. Here their lack of funds, lack of an adequate education

and lack of family and housing assistance often results in their getting in trouble with the law or developing even more severe problems with alcoholism and drugs.

LACK OF AFFORDABLE HOUSING FOR WORKING PEOPLE

Housing is not only a problem for the poor, it is also a major problem for our employed individuals. Many of the jobs which are available on our reservation pay very low wages, making it all but impossible for our young married couples to find a place of their own. Construction financing on our reservation is complicated and costly, and many people are intimidated by the process, even when they could potentially qualify for federal assistance like NAHASDA Section 184 loans or private assistance. In addition, our lower wages leave us with a sizable number of people who make too much money to qualify for federal housing assistance, but who do not make enough money to build their own home or even to qualify for a mortgage.

Adding to this problem is the fact that we have virtually no available homes for rent or purchase in areas like the villages of Pine Ridge and Kyle where many of our on reservation jobs are located. As a result, it is not unusual to find people driving well over an hour and a half each way to and from work, from Rapid City and other off-reservation towns, and returning home to an overcrowded family dwelling. As a result, a high percentage of their income goes just to pay for gasoline. To make matters worse, this situation allows them less time with their children and families, and increases their rate of absenteeism. It also makes it harder for parents to stay involved in their children's school and after school activities, leaves children home alone after school, and leaves people exhausted and cranky by the time they arrive home from work.

Because affordable housing is not readily available, a number of our people have turned to mobile homes that are not designed to last in the tough climate of South Dakota. Therefore, instead of being able to put some money away for their retirement years, many of our people see their most valuable asset, their home, decrease in value every year. This is a situation which can not change without federal help.

STATISTICS

Here are some of our most basic housing statistics:

- The Pine Ridge Indian Reservation is covers a territory that is approximately 80 miles by 60 miles. It is the home of the Oglala Sioux Tribe.
- The Pine Ridge Indian Reservation includes approximately 1.75 million acres of Tribal and individual trust land.
- The Oglala Sioux Tribe has a 80% unemployment rate.
- Shannon County located within the Pine Ridge Reservation is the third poorest county in the United States according to the 2000 U.S. Federal Census.
- The average family income on the reservation is approximately \$3,700 per year.
- The Pine Ridge Indian Reservation has some of the highest rates of alcoholism, heart disease, and cancer in the United States.
- Almost one-half of the reservation Indian population over 40 on has diabetes.

- Life expectancy for men is 48 years. Life expectancy for women is 52.
- The Pine Ridge Indian Reservation has the highest infant mortality rate in the USA.
- The Oglala Sioux Lakota Housing (formerly Oglala Sioux Housing Authority) manages public housing on the reservation and has constructed housing over the years for approximately 43% of the 2,300 Indian families residing on the reservation.
- There is a current need for approximately 3,000 more houses on the reservation, that Tribal members can occupy through home-ownership or rental.
- Approximately 1700 existing housing units are desperately in need of rehabilitation/modernization.

HOME IMPROVEMENT PROGRAM (HIP)

The Home Improvement Program (HIP) was eliminated from the President's FY 2008 budget which is needed to assist the most needy Tribal members just to keep their home inhabitable. One of the primary reasons for the elimination was cited as "eligibility overlap" and duplication of services between HIP and the HUD Native American Housing Assistance program, which provides low rent and home ownership opportunities for tribal members. These programs are designed and administered to serve Tribal members with distinctly different needs, thus there can be no duplication of services or overlap in eligibility.

INFRASTRUCTURE

There is an urgent need for adequate infrastructure that is able to support tribal housing. Providing electrical lines and poles to homes is very expensive, but cannot be ignored. Can any of you imagine living in a home without water or sewer? Currently our Tribal members are placed on an IHS wait list for these most basic of necessities. Road construction and maintenance to make homes more accessible is another basic necessity that some members of my Tribe do without. These are the most fundamental needs of people everywhere, and our Native people, the Tribal members on Pine Ridge Reservation, are often just asked to wait.

It is significant to note that the cost of building materials is extremely high, and especially at Pine Ridge. The nearest lumber company that most Tribal programs and people purchase from is from Rapid City, S.D. which is approximately 95 miles away. When those companies transport material to the Reservation, the markup rate is usually much higher due to the rural area.

PARTNERSHIP ENDEAVORS

The Oglala Sioux Tribe Partnership for Housing Inc. (OSTPH) has, since 1999, assisted seventy (70) families through the process of becoming homebuyers on the Pine Ridge Indian Reservation. As a tribally chartered, 501(c)(3) non-profit corporation, OSTPH has prepared families by providing homebuyer counseling, credit counseling and repair and facilitation with the mortgage process. Through its self-help program some of the homebuyers learned building skills while helping to construct their own homes. When funding has been available to do so, OSTPH

has been able to provide down payment and gap financial assistance. OSTPH has also helped to strengthen the local economy by providing construction jobs.

Although we have a very high rate of unemployment on the reservation (over 80%) the homebuyer education has helped homebuyers to make an effort to retain their jobs or to seek other work if their job ends due to program funding, etc. We truly believe in what we do but we cannot do it alone. We know the importance of partnering wherever possible to help families achieve the dream of owning their own homes. Our successes have been gained through partnerships with local, state and national housing and related organizations, educational entities and faith-based groups.

MAZASKA, a tribally chartered 501(c)(3) corporation was formed in June 2004 as a U.S. Treasury Department certified community development financial institution (CDFI). MAZASKA's initial loan product was a direct mortgage loan to reservation families of good character who failed to meet the underwriting criteria of banks or government agencies. The corporation's credit counselors work with the buyer to resolve the financial issues that prevent them from securing a conventional or government loan. The program is designed to increase the rate of homeownership on the reservation while helping families develop financial skills. At the end of the term the homebuyer will become eligible for a conventional or government loan. MAZASKA has defined four other loan products for the following purposes: home purchase, home rehabilitation, construction and land purchase loans.

We have a great need for housing and a great need for a sound economic community structure. These loan products can help meet such goals, but that cannot be done without access to funding to help build lending capital.

While, the Oglala Sioux Tribe is making positive strides to increase home financing opportunities and provide affordable housing for our Tribal members, our goal will not be met until all Tribal members have a clean, safe, affordable place to live.

REAUTHORIZATION OF NAHASDA

For all of these reasons, the reauthorization of the Native American Housing Assistance and Self-Determination Act of 1996 is critical, but while there is no question that NAHASDA must be reauthorized, there are several issues that must be reconsidered in its re-authorization.

NAHASDA provides affordable housing and housing related services to members of federally recognized Tribes. However, as I indicated, funding is based on the United States Bureau of the Census data that allows racial self identification. Under the 2000 Census, for the first time ever, the Census Bureau allowed responders to self identify as more than one race. For whatever reason, the use of "multi-race" reporting resulted in a distinct and trackable shift in funding from rural reservation-based communities to the more urban parts of the United States. This use of census data has polarized the federally recognized Tribes and there now exists serious disagreement over whether single or multi-race data should be used to determine Tribal size and/or funding. The Oglala Sioux Tribe believes that this argument is unnecessary because there is no statistical relationship between either census single or multi-race data and Tribal membership. Only the Tribes can determine their membership and whether individuals have the right to participate in Tribal programs. The Oglala Sioux Tribe respectfully requests that you develop an amendment to NAHASDA authorizing HUD to accept Tribal enrollment and address

listing data without challenge. The Tribe also requests that the amendment provide adequate funding to Tribes, which will allow them to conduct their own census and reflect their true and correct reservation population figures.

In the early 2000s, HUD instituted a project to determine whether entities had failed to remove paid off homes from the housing inventory and thus allegedly were over compensated. Based on these findings, HUD commenced an attempt to collect the alleged overpayment from the tribes. Tribes from all over the Nation were coerced into agreeing to pay back such funds. Recently the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation sued HUD over this practice and prevailed. The Court not only determined that HUD could not recapture such funding, but also that the funding for current assisted stock that existed in 1998 established a funding floor below which the Tribes could not be funded. While this was a great victory, the decision in the case was made applicable only to the Fort Peck Housing Authority. Currently some Tribal housing authorities, including our Oglala Sioux Lakota Housing, are contemplating bringing their own civil action to recover their NAHASDA block grant funds. We believe, however, that instead of allowing costly and time consuming litigation, the Congress should simply include the court's language in the re-authorization provisions to the NAHASDA funding formula to prevent this situation from happening again.

Of course it goes without saying that reauthorization should go hand-in-hand with appropriation of funds sufficient to provide much needed relief in the upkeep of affordable housing, For the Pine Ridge Indian Reservation alone, more than \$60,000,000 dollars is needed to provide rehabilitation/modernization to more than 1700 housing units. Without the allocation of sufficient funding to start addressing our current need in earnest, our existing rental units will continue to deteriorate to the point where some of them will eventually be uninhabitable. The Executive Director of the Oglala Sioux Lakota Housing, Ken Lone Elk, has informed me that the directors of the 1868 Treaty Tribes are in the process of drafting proposed authorizing legislation to request federal funds to rehabilitate/modernize existing HUD funded rental units on their reservations. Because we recognize that NAHASDA itself cannot be funded in sufficient amounts to satisfy the actual needs of the Tribes, the Oglala Sioux Tribe and other Sioux Tribes will be requesting that Congress pass special legislation authorizing sufficient funding to meet the rehabilitation/modernization funding needs of the Tribes. Because this funding, by necessity, will exceed one hundred million dollars, the Tribe recognizes that full funding may not be possible immediately and that the authorizing legislation may need to authorize funding over a period of years. But we ask you to realize that our need is great and that everyday that we delay these repairs, our homes deteriorate unnecessarily.

HOUSING IS A TRUST RESPONSIBILITY AND A TREATY OBLIGATION

Providing federal funds to plan, design and construct affordable houses and rehabilitate/modernize existing rental units for the members of the 1868 Sioux Treaty Tribes is not Government largesse. It is a trust responsibility and treaty obligation.

The Powder River War of 1866-1868 culminated in the 1868 Peace Treaty between the Sioux bands and the United States. The 1868 Treaty established a permanent reservation (homeland) for the absolute and undisturbed use and occupation of the Sioux bands and provided for certain benefits in exchange for peace. Yet, just 9 year later, Congress confiscated the Black Hills portion of the reservation and Sioux hunting rights in the Act of February 28, 1877. Both the Treaty and 1877 Act addressed the housing needs of the Sioux people.

Articles 5 and 8 of the 1877 Act provide that, in exchange for the confiscated territory and Sioux hunting rights, the United States would provide the Sioux Indians all aid needed in the work of civilization, and that each individual Sioux Tribal member would be protected in his or her property, person and life. The hunting rights, i.e., the buffalo, which was taken from us, *once* provided the Sioux people with food shelter and clothing. The Supreme Court has found that the quid pro quo for confiscating that hunting right was an obligation to provide subsistence rations to the Sioux people. It necessarily follows that the quid pro quo also included an obligation on the part of the Government to provide affordable housing to the members of the Sioux tribes.

In conclusion, I would like to thank you Chairman Dorgan, Vice-Chairman Thomas and the members of this Honorable Committee for your concern about the Government's trust responsibility and Treaty obligations to provide affordable housing for Tribal members residing on the Pine Ridge Indian Reservation, and the Committee's interest in doing something about the deplorable housing conditions that currently exist on our reservation.