

Testimony of James Steele, Jr.
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Before the Senate Indian Affairs Committee
On Native American Housing Programs
June 28, 2006

Good morning Chairman McCain, Vice Chairman Dorgan and members of the Committee, my name is James Steele and I am the Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Indian Nation in present day western Montana. I appreciate the opportunity to speak before you today. With me here today is Mr. Jason Adams, Executive Director of the Salish and Kootenai Housing Authority (SKHA). The Salish and Kootenai Housing Authority is the Tribally Designated Housing Entity (TDHE) of the Confederated Salish and Kootenai Tribes. The Confederated Salish and Kootenai Tribes is one of the original ten Self-Governance tribes in the U.S. and we are the only Tribes in the country who operate both our IIM program and our title plant. Another interesting historical fact is that we were the first in the country to organize under Indian Reorganization Act.

There are two aspects of the housing program on the Flathead Reservation that this committee may find of interest. The first is the issuance of private mortgages by our utilization of the HUD 184 program. SKHA has partnered with several of the local lenders on the Flathead Indian Reservation to provide this homeownership program to our membership. We have over 80 mortgages that have been completed with a majority of those loans being on trust land. In all of the transactions the Tribal Council placed the SKHA in a position of essentially an additional guarantor over and above HUD's guarantee. Our taking control of the BIA's Title Plant was an important development in this process that has helped convince local lenders to issue mortgages.

This allowed for timely recordation and retrieval of title documentation that is essential to the lending process. If there is ever a default the lender comes to the Housing Authority to assist in placing another tribal member into the home and assuming the mortgage. Another issue I wanted to highlight is the success of our Housing Authority in providing homebuyer education. With the use of several different grant sources the SKHA has been able to provide homebuyer education classes. In the last year we have had over 80 families graduate from the classes with 56 of those families going on to obtain a mortgage through either the HUD 184 program or our on tribal credit program. One of the advantages that we have is that our tribal leadership had the foresight to establish a tribal credit program in the 1960's and established a process to provide mortgage lending on trust land, both individual and tribal owned.

The Flathead Indian Reservation is home to the Salish, Kootenai and Pend d'Oreille people. We have an enrollment of over 7000 tribal members, with approximately 4,800 residing on the reservation. The total size of the Flathead Indian Reservation is 1.317 million acres.

According to the Bureau of Indian Affairs, 1,075 of CSKT's enrolled members are employed, but 59% of those employed live below the poverty line. The state of Montana determined the unemployment rate on the reservation to be 41% in 2002. More recently the University of Montana Business quarterly reported that the CSKT unemployment rate was 36%¹. According to the US Census 2000, Lake County's poverty rate is 19%, 29% for children 0-17. While the reservation area is a beautiful area in Western Montana, our Tribes still wrestle with the difficult issues of poverty, unemployment and low academic achievement by some segments of our population.

¹ November 2004 – Business Quarterly – Special Report on Indian Reservations

The low high school completion rate and incidence of non-enrollment in schools on the Flathead Reservation are major concerns for our Tribes as we compete for local jobs. The Montana Office of Public Instruction reported that the 2000-2001 completion rate for American Indians at Ronan High School was 66.7 percent. The completion rate at Two Eagle River School was approximately 62 percent. In addition to students who drop out, there are Indian students who fail to enroll. In the 1990 Census, the latest data available, that group was estimated at 15% of those aged 16-19 on the Flathead Reservation. CSKT TANF data also indicate that 50% of the TANF caseload does not read, comprehend or communicate at an 8th grade level.² Issues of poverty and lack of full time employment do impact housing decisions and the way the CSKT would like to operate the local SKHA housing program.

Some of the Native American housing issues that I would like to touch on today are the Native American Housing Assistance and Self-Determination Act (NAHASDA) reauthorization scheduled for 2007, the NAHASDA funding formula and funding levels for FY 2007, the funding level for our national advocacy organization the National American Indian Housing Council (NAIHC) and the latest issue of HUD freezing NAHASDA funds to recipients that have not received their FY 2006 funds.

It is anticipated that the NAHASDA will be reauthorized next congressional session. I would like to inform you of one major issue in the reauthorization that is very important to the Confederated Salish and Kootenai Tribes. The issue is the 30% rule. The 30% rule is a mandate

² The Department of Labor establishes the 8th grade level as a functional employment level for most jobs. The CSKT DHRD offers both a GED bonus and a bonus when clients increase their reading and math scores, which translates to greater opportunities for employment and increased self esteem.

in the act that requires all tenants in units supported by NAHASDA funds to have to pay no more than 30% of their adjusted income. The intent behind this rule may have been to protect low-income beneficiaries of NAHASDA funds from being overcharged for rent or to ensure that those who could afford it were paying a percentage of their income in rent that is approximate to what is conventional in the non-Indian world. Whatever its intent, it is not working. Our position is that our Tribes could benefit from discretion in this regard and that we could design and implement a rental fee schedule that provides an incentive to those who have lived in poverty historically and then who go to work. Our goal would be a gradual rent increase with financial literacy education. The present rule also requires tribes to certify the participant's income at least annually to make sure that the 30% rule is not violated. This has created is a huge administrative burden for SKHA and other TDHE's throughout Indian country. The rule is presented as an absolute and allows for no discretion as we transition people from welfare to work.

A major problem I have with this rule, from a tribal leader's perspective, is that it does not allow the tribal leadership of the Confederated Salish and Kootenai Tribes or the Board of Commissioners of our Housing Authority to truly self-determine the structure of the housing programs that we provide to our membership with the NAHASDA funding. We successfully operate many federal programs using the discretion afforded by Indian Self-Determination. Surely true self-determination should also apply to housing. The essence of NAHASDA is for tribes to be creative in partnering with other affordable housing organizations and funding sources to get the greatest use of the very limited funding that is received from NAHASDA. If the 30% rule is not deleted from a reauthorized NAHASDA I would ask that the tribes be able to establish a sliding scale for rent as people work to meet a maximum amount based on location

and economic value of the unit and personal success or ability to pay. Our belief is that by having the ability to set a sliding scale and a maximum rent, that it would be an incentive for the members of our tribe to find some form of consistent income. Additionally as people are laid off in the winter (we have a number of seasonal jobs here) or don't achieve full time employment, the rental rate could be reduced thereby reflecting the economy and the individual's circumstance. We also believe that we could achieve a minimum rent over time and this would give the tribal member participant greater responsibility in taking care of the rental units. In this manner, there is the opportunity to build in pride and ownership of a home. The SKHA has over 400 rental units and that stock of units is aging and the cost to maintain them is ever increasing.

There are a vast number of issues in regards to the NAHASDA reauthorization and I would ask that this committee convene another hearing specifically for the reauthorization within the next year.

The original Negotiated Rulemaking session that followed the passage of NAHASDA created a funding formula to allocate the NAHASDA funds to all of the eligible recipients. The regulations required a five year review of the funding formula and the work of the second Negotiated Rulemaking Committee on the funding formula just concluded this last January. One of the major issues discussed at the last Negotiated Rulemaking Committee was how Indians are counted for purposes of funding in the NAHASDA funding formula. The funding formula uses census data. I am sure that this Committee is aware of the vast discrepancies that exist in many parts of Indian country from the gathering of census data. It is my understanding that the last Negotiated Rulemaking committee was not able to come to any consensus on changing the use

of census data. One major action took place that created a great deal of disagreement and led to the lack of consensus was an arbitrary decision from the Assistant Secretary of HUD in 2003 to change the use of census data from the single-race data set to the multi-race data set. As I understand, this decision was made without consulting with tribes and without giving tribes the opportunity to provide input back to HUD on the effects that such a decision would have to the recipients of NAHASDA. Again, as a tribal leader I am very concerned that HUD would even consider making such a major change without even consulting with tribes. I am encouraged by the work that has begun at NAIHC to work within its membership to convene a task force to study this issue and work toward common ground with its membership to find an answer to this difficult issue. I believe that when tribes come to the table with the expectation for solving an issue themselves it will happen. I would ask this committee and each member individually to assist NAIHC with the proposal that comes forth from the NAIHC task force.

I would be remiss to have this opportunity to speak before you today and not mention the totally inadequate level of funding for NAHASDA. As Mr. Adams has told me on several occasions, level funding is not good enough. For the last several years the funding level for NAHASDA has fluctuated very little, it has been up a little and it has been down a little. I am very concerned because the level of funding has not even maintained pace with inflation. The funding formula itself has inflationary factors built in but the appropriation levels have not kept up with inflation. What this means to our housing authority is less money to maintain our current units and very little money to provide new affordable housing opportunities that are greatly needed. I would ask that this committee support a substantial increase in the FY 2007 appropriation far above what the President's budget proposal contains. If funding levels from FY 2002 had been

maintained with a modest inflation the FY 2007 appropriation for NAHASDA should be approximately \$748 million, not \$625 million as contained in the President's budget proposal. Also, I am aware that the House of Representatives have passed H.R. 5576, the FY 2007 appropriations bill for HUD and several other agencies and that bill contains the same appropriation for NAHASDA as the president's budget proposal. Without some increase in funding our housing authority and many others are forced to make tough decisions on cutting programs, decreasing the level of maintenance of existing units and not being able to leverage funding to create new affordable housing opportunities. Ultimately our low-income tribal membership has less housing opportunities, wait longer for affordable housing and the condition of the existing housing provided is decreased. It is well known that children are not successful in school if they do not have a consistent home base. They can not enter school and be school ready without having roof over their heads and stable and secure housing. Our Tribes are not able to keep pace with the need for family housing if the funding is not increased dramatically. At home we have a housing shortage and finding affordable housing is even more difficult. Our reservation has one of the poorest communities in Montana according to the U.S. Census and that is the community of Elmo, Montana where the poverty rate is 99%. Yet across the lake, in the Finley Point area, you have some of the most expensive non-Indian homes in Montana. The situation must be corrected where the funding is stabilized and Indian families have access to affordable safe housing on their own reservation.

I would like to discuss the funding for the National American Indian Housing Council (NAIHC). Staff from our housing authority was involved in the creation of this organization that has become the leading voice for Indian housing. In its 30 year history NAIHC has done a great

service to its membership. It is quite discouraging to see that a very successful organization can have its funding cut without consulting the tribes that benefit from NAIHC's training and other activities. The essence of NAIHC is to assist tribes to improve their housing programs. There are many tribes that are grateful to NAIHC and its dedicated staff of housing professionals that have been able to come along side those tribes and given very able assistance. NAIHC and its membership have worked hard to become the voice for Indian housing. What are tribes to do if the funding that is the lifeblood of this organization is cut off or substantially reduced? The sad truth is that tribes that are making progress in offering more housing services to their membership will be negatively affected by not having NAIHC to assist them. Many of those tribes do not have the resources to come here to ask for some form of assistance to establish services for their tribal membership. It is very discouraging to see that the President's budget proposal does not contain any funding for NAIHC. I would ask that this committee and its members fully support NAIHC and its membership of 265 tribes and/or TDHE's and work to not only restore NAIHC's funding but have the funding increased to keep up with the cost of providing the services.

The final issue that I would like to discuss today is the recent decision from HUD to freeze all allocations of NAHASDA block grant funds to those tribes that have not yet received their FY 2006 funding. As I understand this situation, HUD is reacting to a court decision stemming from a lawsuit filed by the Fort Peck Housing Authority. The court ruling declared NAHASDA regulation 24 C.F.R. § 1000.318 invalid which therefore changed the NAHASDA funding formula. I understand HUD is appealing the decision and has made a decision to freeze funding until the outcome of their appeal. This decision does not directly affect our housing authority

now, but the appeal will more than likely take several months if not years to be decided. What will happen if the appeal goes into next fiscal year? Will all tribes that receive NAHASDA block grant funds have their grants frozen for next year? We have been told that within our HUD region nine of 32 tribes that receive NAHASDA block grant funds have their FY 2006 funds frozen right now and I understand 141 tribes across the country are in this same position. How are they supposed to operate? Many tribes have utilized the HUD Title VI program and have borrowed future grant funds to develop projects. What will happen when those loan payments are due and the tribe does not have the resource to make the payment because their NAHASDA Block Grant funds are frozen? I understand there are many tribal housing authorities whose existence depends on receiving the NAHASDA Block Grant funding. If this freeze lasts for any length of time many tribal members who work for their tribe's housing authority will lose their jobs as these authorities do not have the funding to operate and will have to close their doors. I understand the situation that HUD has been placed in due to the court ruling, but it seems that there should be another way to carry out the ruling that will not require tribes and their housing authority staff and tenants to suffer.

It has been an honor to be invited to testify before this committee. I again would like to thank you Chairman McCain and members of the committee for having this hearing and for providing an opportunity for a panel of tribal representatives to come and give our perspective on some of the important issues facing Indian Country in the area of housing.