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HOUSE COMMITTEE ON AGRICULTURE SUBCOMMITTEE ON RURAL DEVELOPMENT, BIOTECHNOLOGY, SPECIALTY CROPS AND FOREIGN AGRICULTURE

*Hearing on Rural Development Programs Operated by USDA and the Status of Funds for these
Programs Provided by the American Recovery and Reinvestment Act*

June 10, 2009

Testimony of Governor Chandler Sanchez *On behalf of the Pueblo of Acoma and the National Congress of American Indians*

Chairman McIntyre, Ranking Member Conaway, and the members of the Committee, thank you for having me here today. My name is Chandler Sanchez and I am the Governor of the Pueblo of Acoma. On behalf of the Pueblo of Acoma and the National Congress of American Indians (NCAI), the oldest and largest national organization representing tribal governments, I am delighted to be here. Thank you so much for ensuring that a Native voice was heard today.

As you know the USDA in general and the Rural Development Office specifically is extremely important to Native people, yet we continue to be dramatically underserved. Indian Country is America's most rural population. While only 30% of America lives in rural areas, nearly 60% of Natives still live in rural America. And we are probably the rural population most in need of rural development. Nine of the ten poorest counties in America are not in the South or in West Virginia, they are counties with Indian reservations. And while only 1% or less of the general U.S. population doesn't have access to a phone, or to electricity, or to clean water – 30% of Natives do not have basic telephone access, 14% of us still don't have electricity, and over 13% of us don't even have access to clean water. And while the U.S. is concerned with the unemployment rate rising to 9%, many of our communities have been struggling with 90% unemployment. There is perhaps no area more desperately in need of the USDA Rural Development services than Indian Country.

Despite this desperate need, Indian Country is not getting served well by the USDA. For example, of the 250 economic stimulus water projects just announced by the USDA, I could only find one that was Tribal. Yet we lack access to water at a rate 20 times greater than anyone else.

It is not news that the USDA is bureaucratic and inflexible. But there are a number of systemic issues built into the USDA requirements structure that perpetuate this problem in Indian Country. I will go into more detail, but one example is the USDA and Congressional preference for loans over grants. We understand and respect this from a business point of view, but many of our communities have no resources for loans, and no way of getting resources to pay back loans until we have basic infrastructure in place. It's a vicious cycle. Another example is the USDA's preference for "incumbents" in their funding. If the current companies, the incumbents, were serving Indian Country well, we wouldn't have this dramatic lack of service.

I don't mean to infer the USDA has done nothing. They have a very good tribal liaison in the Rural Development office that is working very hard, a number of very dedicated state employees, and they have done some calls and webinars for Indian Country on the economic stimulus, both with NCAI and with the White House. However, there continue to be major systemic impediments, and the overall USDA effort has been insufficient. I think most telling is that in preparation for this testimony, we sent out a notice throughout Indian Country asking for stories on how these programs were working. Unfortunately, rather than being given a list of how the applications were going and how any funds were being spent, the most common answer we received was that they had either never heard of the programs or they didn't have the resources to apply. Something is inherently broken when the resources are not getting to those who need them most.

THE NEED FOR USDA RURAL DEVELOPMENT IN INDIAN COUNTRY

This Committee, perhaps better than any other, understands the importance of the USDA and its rural development programs for Indian people. While only 30% of America lives in rural areas, nearly 60% of Natives still live in rural America. And not only are our areas just rural, they are often very remote and isolated. For example, most of the villages in Alaska still have no road access at all and all travel is only available a few months of the year by plane. Throughout all of Indian Country, 65% of our roads are dirt and gravel, treacherous throughout the year and impassable during bad weather.

Not only can we not travel well, we cannot communicate well, with 30% of us not having basic telephone service and 90-95% of us not having high speed internet access. Last year NCAI took a delegation to Indian Country, and the while there the White House staff were very surprised to find that even their high tech international phones would not get a signal in Indian Country. Without the basic skeletal infrastructure of roads, water, and communications in place, economic development continues to elude us. Despite the well known successes of a few of our Tribes located in more populated settings, nationally we continue to have a poverty rate twice that of the rest of America (25%).

THE POOREST COUNTIES IN AMERICA ARE INDIAN COUNTRY. A census statistic, in which we take no pride, is that 9 of the 10 *poorest* Counties in the U.S. are Native American reservations and communities, 6 of them alone are in North and South Dakota. By and large these are rural and often isolated counties, which are in desperate need of a better relationship with USDA and Rural Development.

	<u>County</u>	<u>Tribe/Reservation</u>
1	Buffalo County, South Dakota	Crow Creek
2	Shannon County, South Dakota	Pine Ridge
3	Starr County, Texas	--
4	Ziebach County, South Dakota	Cheyenne River
5	Todd County, South Dakota	Pine Ridge
6	Sioux County, North Dakota	Standing Rock
7	Corson County, South Dakota	Standing Rock
8	Wade Hampton, Alaska	Several Native Villages/92% Native
9	Maverick County, Texas	Kickapoo Traditional Tribe of Texas
10	Apache County, Arizona	Navajo and White Mountain Apache

USDA RURAL DEVELOPMENT & INDIAN COUNTRY

ARRA & “PERSISTENT POVERTY COUNTIES”

The Recovery Act provides a 10% set-aside to persistent poverty counties for the billions of dollars provided to USDA Rural Development programs for water and infrastructure, business and investment, community facilities, and rural housing. To date however we do not know how USDA intends to reach out to these another persistent poverty counties, especially since, as was just discussed, 9 of 10 of the poorest are actually Tribal counties and it is the Tribes, not the County government, that provide most of the services. To the best of our knowledge, the USDA has not reached out to consult with the Tribal governments themselves within these counties or to discuss and plan implementation of this provision.

“Persistent Poverty County” Recommendation:

- NCAI and the Tribes would be pleased to be invited to be part of the solution. We very much look forward to hearing from USDA on approaches being considered and any progress that may have already been made in the dispensation of funding to persistent poverty counties and the Tribes within those counties.

RURAL WATER & WASTE DISPOSAL

13% of Tribal Homes No Water Access. Currently over 13% of tribal homes lack basic access to safe drinking water and/or basic sanitation (living conditions often associated only with the developing world). The statistic for the rest of America is less than one percent nationwide, 0.6%. With the proportion of Native people lacking access to safe drinking water at over 20 times the national average, one would think that the proportion of federal funding would at least approximate this dramatic difference. However, just using the USDA’s own press announcements regarding over 250 water projects water and waste water projects funded under

ARRA (April 28 and May 28), we counted only one of which we could identify as Tribal, or 0.4% of the projects recently funded.

Alaskan Example. In rural Alaska residents of many Alaska Native Villages must still use external “honey-buckets” and then have their waste transported by all-terrain vehicles to untreated sewage lagoons nearby. To compound this problem, many of these lagoons often overflow (as according to a 2003 Government Accountability Office report, 184 out of 213 Alaskan villages are subject to flooding, melting permafrost, and erosion due to warming temperatures⁵), leading to a variety of additional health issues.

South Dakota Example. The water need for economic development is so great in our Nations it is almost overwhelming to discuss. For example, in South Dakota, the Cheyenne River Sioux Tribe’s, economic development has been completely halted due to lack of water. The antiquated water system is at 99% capacity, and there is a complete ban on new construction. While the housing need is enormous, there is absolutely no housing available, and 750 requested homes wait in the queue to be built. This bars economic development, as the Tribe cannot hire new employees or teachers, or attract any new business, as there is nowhere for them to live or build. The lack of water and housing is also a public safety issue. Unfortunately Indian Country has some of the highest rates of violence against women, but there is no housing for our women and children to move into, if they need to get out of their home environment into safety.

The new water intake system for Cheyenne River will cost approximately \$80 million. Last year Congress appropriated \$16 million for all tribes in the rural water account, with a USDA cap of no more than \$1 million per tribe. Clearly this rate of Congressional and USDA investment will never pull Indian Country out of its third world water conditions.

Water Recommendations:

- **Increase Set-Aside Authorization.** This is not just an appropriations issue, this is an authorization issue. We need this Committee to commit to a more substantial set-aside for Indian Country in the Water account. If our need is 20 times that of the general population, a 20% or more set-aside in the rural water account for this area is necessary and humane until this dramatic gap begins to close.
 - We recognize that the Alaska water account has had federal implementation issues over the last few years and we look forward to that being worked out, and that program finally being effectively distributed within Alaska.
- **Focus on Grants Rather Than Loans.** Additionally, this account needs to be available predominantly in grant funds to these poorer communities. If these Tribes had the resources to build out with loans, they would have already done so. While the USDA policy is that up to 75% of the project cost can be provided in loans, in reality that caps at around 25%. This ratio needs to be addressed for these poorest counties and areas. The problems with the loan issue are compounded by the fact that many of these Tribes have treaty right access to these waters, and many of the water access issues were caused by the federal government itself, including the national damming projects.
- **Interagency Coordination on Indian Water Projects.** Several agencies such as the USDA, Indian Health Service, Environmental Protection Agency and Housing and Urban Development, provide some aspect of water infrastructure funding for Indian Country. However, each agency has different engineering standards, reporting requirements, and grant cycles among other things that make it extremely difficult for Tribes to be able to

access these resources. One good example of cooperation is the USDA-IHS Memorandum of Understanding (MOU) to designate a lead agency to manage all of the major aspects of a project, such as project management, funding, and engineering standards. That MOU resulted in MOAs between IHS and USDA in the States of Washington and Mississippi. Such interagency cooperation on Indian water projects should be replicated across more of the programs and the agencies, and in state to create efficiencies that result in water infrastructure in rural America, including Indian Country.

RURAL COMMUNITY FACILITIES

The Rural Community Facilities program is one which Tribes are very excited about, as with much of rural America, our needs for essential community facilities such as fire houses, ambulance services, tribal court buildings, etc. are great. For example, our education buildings alone are, on average, at least 60 years old; while, 40 years is the average for non-Indian schools.

In particular, we are grateful for the Tribal college facilities program under this account for our land grant institutions. The Tribal Colleges are a one of the biggest facilitators for educational and economic growth in our communities. However, there are no set asides in this program for tribal governments and Indian Country. Additionally, as with the water program the loan amounts available are dramatically greater than grant amounts. Many of our communities, especially those in the most impoverished areas, are not able to adequately participate in a loan program.

My own tribe, the Pueblo of Acoma, applied this year for a Rural Development loan/grant package for the construction of a \$14 million community center and wellness facility. This center, which is 100% shovel-ready, would not only serve our reservation, with a population of about 4,000, but also surrounding communities with an additional rural population of 6,000. It would house a gymnasium and other wellness facilities to help us address diabetes and other community health issues.

The state USDA office has worked with us closely and we have great respect for these federal employees. They care about Indian Country. However, we were stunned when we received from them a draft community facilities loan/grant letter that provided for \$14 million in loan and loan guarantees and absolutely **no money** in the form of a grant. We were told that as a matter of policy USDA does not provide significant grant funding for community facilities.

With all of the economic stimulus funding that has been made available for shovel-ready projects, it is hard to believe that USDA could not come up with any grant funds. We thought that we might see something like 30-40% of the project funded by grants – not zero percent. It is clear to us that USDA Rural Development is not mobilized to get out ARRA funds where they are most needed, as was intended by the Congress.

Since then, USDA officials have said that they might be able to provide \$200,000 in the form of a grant. But this is still barely more than 1% of the total cost. This facility is important to our community. Acoma is willing to borrow many millions towards construction of this facility, but we need USDA grant support. This is just one of many examples where many of the resources are not getting down to those communities that need it most.

Rural Community Facilities Recommendation:

- **Create a Set-Aside Authorization.** Unlike many of the other USDA programs, there is no Tribal specific set-aside in the Rural Facilities program. A set-aside proportionate to the need would dramatically help with the extensive facilities needs in Indian Country.
- **Focus on Grants Rather Than Loans.** Additionally, this account needs to be available predominantly in grant funds to these poorer communities. If these Tribes had the resources to build out with loans, they would have already done so. While the USDA policy is that up to 75% of the project cost can be provided in loans, in reality that caps at around 25%. This ratio needs to be addressed for these poorest counties and areas.

RURAL BUSINESS

Unfortunately, we are unable to adequately address the Rural Business program in this testimony as we could only identify one Tribe that was in the process of applying for these economic stimulus funds.

Rural Business Recommendation:

- While we are hopeful there are a number more individual Native and Tribal governments participating, we believe there needs to be much more education and outreach to our communities about these programs.

TELECOMMUNICATIONS

We recognize telecommunications is not the focus on this particular hearing, so we will not go in to much depth, but with only 5-8% high speed internet penetration rate, and 32% of our population still with no telephone service at all, we are hopeful that a witness from Indian Country will be called to testify at any future telecom specific hearings. Quickly I just want to mention one area of concern and offer some additional concrete recommendations. First, the current non-Tribal providers being funded by USDA are not serving Indian Country well. If they were, we would not have such access issues. But USDA's system is set up to perpetuate this lack of access, by favoring current providers or "incumbents." We advocate for preference for Tribal providers, regardless of whether there is another provider nearby in the service area.

Telecom Recommendations:

- Create a Tribal Spectrum Loan Program with FCC for Tribes to purchase spectrum and develop spectrum services in Tribal communities.
- Ensure all authorizations and appropriations are designed to be reflective of the disproportionate lack of access in Indian Country.
- Ensure the USDA is properly implementing the "Substantially Underserved Trust Area" (SUTA) discretionary program Congress created in the Farm Bill.
 - Ensure the USDA is reaching out to Tribal governments to encourage them to serve as their own providers.
 - Ensure USDA is using the discretion granted under the program to waive non-duplication restrictions and matching funds requirements, and to give the highest funding priority to designated projects in SUTAs.
- Change broadband authorization to not continue to prioritize non-Tribally owned incumbent providers when the service area includes Tribal lands.

- Create a telecom set-aside for Tribal areas consistent with the level they are underserved compared to the rest of the U.S.
- Use criteria for funding projects and service in rural and Tribal areas and assessment of funding achievement which measures “increased connection” to public infrastructure and public access points.
- Authorize and provide grants and loans to conduct telecommunications engineering and financial feasibility studies.

ADDITIONAL RECOMMENDATIONS

IMPROVE OUTREACH AND CONSULTATION

- **Establish Indian Country Office in USDA Rural Development.** The USDA state structure does not work particularly well for Indian Country. It does not take into account the broader national deficiency for Natives. The Rural Development does have an Indian liaison, Ted Buelow, and he is terrific. But he is one person for over 560 Tribes, the areas with the very greatest need it is an impossible task for just one person. USDA Rural Development should have a completely staffed Indian office at Headquarters reporting directly to the Under Secretary, with at least one tribal liaison for each major office within Rural Development.
- **Fund the Administration’s Request for USDA Department-wide Office of Tribal Liaison.** While today we are just focusing on Rural Development, all of USDA has a dramatic impact in Indian Country. For example, agriculture is the second largest industry in Indian Country, many tribes depend on an array of additional USDA programs, such as in telecommunications, electricity generation, extension programs, and FDPIR. In addition, many of our most sacred lands and places are located on U.S. Forest Service land. We are disappointed that the new administration let go of our Tribal liaison. But we are hopeful that they intend to fill that position again very quickly, and expand that office as they requested \$1 million to fund a Tribal Governmental office for USDA. We respectfully ask that the Committee not only support the Appropriations Committee in funding this request, but also permanently authorize this office.
- **Provide Indian Reservations with the Same USDA Access Given Every County in America.** Congress mandates and funds research and extension services in every county in the nation except on Indian reservations. The Extension Indian Reservation Program (EIRP) must be expanded to provide access, education and training to Tribes, including Alaska Native Villages, and Tribal colleges. This program provides the only federal source of funding to cover the cost of placing extension agents on Indian reservations. Only 27 reservations have EIRP programs, which is only 5% of all Tribes. The new Farm Bill directs extension agents to be placed in areas “where there has been a need demonstrated.” I hope we have sufficiently demonstrated “need” today and respectfully request the Committee to ask the USDA about the progress on EIRP expansion.
- **Encourage USDA To Implement its New Tribal Consultation Policy.** Perhaps more than any other agency, significant progress needs to be made in USDA’s understanding of

the nation to nation relationship that exists between Tribes and the federal government. Rather than viewing the federal government as a partner, especially regarding decisions that directly affect Tribes, the USDA has largely treated Tribes as either an afterthought or an impediment. USDA had established an agency directive that closely follows the Executive Order on Collaboration and Consultation with Indian Tribal Governments (E.O. 13175), but we do not yet believe it has been implemented. We look forward to working with USDA to educate and advise USDA decision makers and staff to ensure that tribal consultation is understood, appreciated, and implemented. We look forward to forming a much needed *partnership*.

DIRECTLY ADDRESS THE DISPROPORTIONATE NEED

- **Create Tribal Set-Asides Proportionate to the Need.** As discussed throughout the testimony, in many areas Tribal lands have a clearly disproportionate need for many of the USDA's Rural Development programs. Yet none of these programs allocates funds proportionate to that need, and only a handful of these programs have set-asides for Tribes. Set asides in dozens of other federal programs range anywhere from 3-20%, depending upon the need, and many agencies have Tribal-only programs in areas in which the need is so disproportionately great.
- **Grants Rather than Loans for the Poorest Counties and Communities.** For many of our communities, there are no viable loan repayment options. While technically USDA can fund up 75% of the project cost with grants, practically speaking no one really receives much more than 25%. This ratio needs to be addressed for these poorest counties and areas.

REMOVE BARRIERS TO ACCESS

- **Better Tailor Application Process for Governments.** Many Tribes whom I spoke to in preparation for this testimony outlined the difficulty they had with the USDA in the application process regarding Tribal financials. The USDA application process is not designed to take into account the complexities of a Tribal government and its financials; they often require too much onerous irrelevant information. We strongly recommend USDA reach out to other agencies, like IHS and Bureau of Indian Affairs who more regularly provide grants to Tribal governments, to design a less intrusive and more effective application process.
- **Distribute Some Funds Based on Need Formulas Rather Than Competitive Grants.** It is well known within Indian Country that our communities most in need do not often have the grant writing capabilities to affectively vie for competitive grant programs. So while communities may have the greatest need, it is precisely this reason that they are often unable to allocate any free resources to effective grant writing. We encourage Congress and the USDA to look into more formula based programs where funds are distributed to areas with the greatest rural development need.
- **Better Interagency Coordination on Indian Projects.** Several agencies such as the Indian Health Service, Environmental Protection Agency and Housing and Urban

Development, provide some aspect of funding for Indian Country that they share with USDA. However, each agency has different standards, reporting requirements, and grant cycles among other things that make it extremely difficult for Tribes to be able to access these resources.

ⁱ United States General Accountability Office, “Alaska Native Villages, Most Are Affected by Flooding and Erosion but Few Qualify for Federal Assistance,” GAO-04-142 (December 2003).