

Written Statement of  
Mark A. Tilsen, President,  
Native American Natural Foods, LLC;  
Adviser to the Board of Directors  
Of the Pine Ridge Area Chamber of Commerce;  
Co-founder of Lakota Express, Inc.

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Thank you, Chairmen Johnson and Mr. Shelby for this time to share the story of Native American Natural Foods as well as the challenges and opportunities facing entrepreneurs in Indian country, in our case the Pine Ridge Indian Reservation, home of the Oglala Sioux Tribe.

I would also like to thank Sen. Johnson and members of the committee for your support of the tribal transportation program. It is a great asset to our growing business community to finally have a new and growing public transportation system.

I also want to acknowledge and thank you for your ongoing support of the Native American CDFI programs. Lakota Funds was the first Native CDFI when it was started in 1985. At that time, there were only two Native American businesses on the Pine Ridge Reservation. Today there are hundreds. Many of them are members of the Pine Ridge Area Chamber of Commerce, which I am also proud to represent here today. Lakota Funds and other Native CDFIs provide the necessary “first rung” on the economic ladder for most first-generation entrepreneurs on many reservations. The CDFIs are the primary source for learning financial literacy. On many reservations, they are the only commercial lenders of any kind.

Your work has had a positive impact on the lives of many. I hope my input here today will help you to find more ways of helping the Oglala Lakota people make the transition from dependence to a self-sufficient, sustainable economy.

Native American Natural Foods (NANF) was founded by my long-term business partner, Karlene Hunter (Oglala) and South Dakota’s 2004 Native American Business Woman of

the Year, and myself Mark A. Tilsen. Ms. Hunter and I have been involved in economic and community development projects on the Pine Ridge Indian Reservation since the 1970s. Ms. Hunter was the first registrar of Oglala Lakota College and one of its first graduates to earn a master's degree. I served as the first development staff person for Lakota Communication, Inc., from 1979 to 1986, and coordinated the development and launch of KILI 90.1 FM, the first 100,000-watt Native American community-controlled radio station in America.

Karlene Hunter and I started Lakota Express, Inc., a successful marketing and management company, 17 years ago. The company was launched in Ms. Hunter's basement in Kyle, S.D., in the center of the Pine Ridge Reservation. We have run the company at a profit from its beginning. Focused on direct marketing and fund-raising, Lakota Express has raised more than \$30 million in net revenue for its reservation-based clients. While we are proud to have helped build the first library on the Pine Ridge Indian Reservation, helped co-found the Pine Ridge Area Chamber of Commerce, trained more than 100 staff people, and helped to strengthen many important organizations on the reservation, we also know it is not enough.

Working with our local CDFI, the Lakota Funds, we began to study distance-neutral business opportunities that had the potential to be large enough to have a positive impact on the health and economy of the Oglala Lakota Oyate (people). It was during this period that we began to learn about brand value and modern brand strategy, and that many of the newest, most successful companies in the country were based on the value of their brands.

In 2006, we reinvested our profits back into the community and applied our experience in marketing to a new strategy by founding Native American Natural Foods, LLC. We decided to enter the natural food market by creating a brand based on modernized versions of naturally healthy Native American foods.

With the help of the Northwest Area Foundation, the Lakota Funds (CDFI) became our first equity partner as a model of community ownership.

We started out wanting to create healthy alternative snacks for Native youth in an effort to help slow down the out-of-control juvenile obesity and diabetes rates affecting the youth in reservation communities and to bring the healthy impact of buffalo back into their diets.

We created Tanka Bar based on a centuries-old traditional recipe called "Wasna," which was made of dried fruit and smoked buffalo meat. Wasna was carried by Lakota hunters and warriors for hundreds of years, so I like to call it America's true first fast food.

In October 2007, we launched our first product at the Black Hills Powwow as an internet-only product, but the story was picked by the Associated Press. Only 10 days after our launch, we were on the cover of the Dining In Section of the *New York Times*. The response was great, but it overwhelmed our production with requests for product literally coming from all over the world.

Working with our long-term banking partners at the First National Bank of Gordon, NE, and the Bureau of Indian Affairs, we obtained a \$916,000 loan with a 90 percent guarantee and interest rate subsidy. This loan enabled us to contract with a large co-packer and to launch the Tanka Bar nationally.

It is important to note that this loan was only possible because of the personal guarantee signed by Ms. Hunter and myself and the equity in Lakota Express, Inc. In March 2008, we launched Tanka Bar nationally at the Natural Products Expo West in Anaheim, CA, to a great response from retailers and national distributors.

For the first six months, we doubled our sales every month until August 2008, when orders stopped. The markets froze, retailers were no longer adding new products, distributors were cutting back or canceling orders, Internet orders slid by more than 50 percent and our operating losses began to grow.

In order to keep Native American Natural Foods alive and growing, we sold shares to the Oglala Oyate Woitancan Empowerment Zone (“EZ”) a tribally chartered development agency that managed USDA funds under the EZ Program. With the help of a PRI from the Northwest Area Foundation to the American Indian Land Tenure foundation, we were able to raise a total of \$750,000 in equity.

As Native American Natural Foods continued to grow at more than 200 percent per year along with the increased price for buffalo, in the winter of 2010, we hit a cash crisis and began to seek help to refinance. But because we were running with a negative equity balance sheet and no way to fully capitalize our assets that are on trust lands or add the value of the brand we are building to our balance sheet, we did not meet the required 20 percent equity to qualify for a guaranteed loan under the BIA loan guarantee programs.

We presented our case to every major bank in western South Dakota. While many of them were impressed with our growth opportunities, they did not feel the loan would pass the equity requirement of the auditors, even if we were able to secure a government guarantee.

During this process, we had the help of Brian L. Brandt, President, Center for Business and Economics of the Northern Plains. Mr. Brandt said:

*“My experience (and the experience of many of our colleagues and clients) is that most of the lending officers at community and regional banks that serve the Midwest (and in particular, in Indian Country) lack the financial sophistication required to understand the business models followed by most successful emerging businesses – low collateral and low inventory levels, and financing operating capital out of projected growth. **Virtually none of the high tech companies we now use as models -- from Apple to Microsoft to Google (which over time have created 125,000 high paying jobs) would have ever qualified for any kind of bank loan from any community bank in the U.S.**”*

*On numerous occasions with Native American Natural Foods (among others) after laying out a growth plan (that included testimony from retailers and distributors alike that backed up the conservative financial forecasts) -- forecasts that would have easily allowed both debt service and repayment out of verifiable growth -- we'd still get the question, 'Yes, but where's the collateral?'*

***The \$30 billion of the Small Business Lending Fund (from the Small Business Jobs Act of 2010) that many in Congress thought would provide a solution was poured into community banks and went primarily to their balance sheets. Very little of it has found its way into community small businesses."***

We then decided to seek a loan with the First National Bank of Gordon, NE, asking SBA to provide a guarantee under the SBA 7a Program. We were turned down this time because of the Empowerment Zone, which is a tribally chartered organization. The SBA mistakenly believed it needed the tribe to waive sovereign immunity. After our attorneys at Patton Boggs here in Washington, D.C., solved that problem, the SBA then wanted the Empowerment Zone to sign the guarantee because it owned 20 percent of the company. But, because the Empowerment Zone is a nonprofit tribal development agency established to administer USDA funds set up through its program, its board was not willing to approve the guarantee.

By the spring of 2010, Ms. Hunter and I had over-extended our resources to the point that we were seriously looking at shutting down operations. But first, we decided to reach out nationally to any tribe or lender who was willing to help.

The Clearinghouse CDFI Fund of Los Angeles, whom we had met during a tour of the reservation organized by Oweesta Corp., a national Native American CDFI that supports Native economic development throughout Indian Country, decided that it would be willing to make its first-ever loan to a reservation-based business if we could get the BIA to approve the loan. We were not able to get the approval. The Clearinghouse CDFI then said that if we could find a guarantor to put up 250,000 in equity, it would approve a \$500,000 loan with a second \$500,000 if we could meet specific performance and equity goals.

The Shakopee Mdewakanton Sioux Tribe made a donor directed recoverable grant to the American Indian Land Tenure Foundation, which was used to put up a CD in the American Indian National Bank. And the Clearinghouse CDFI completed the initial \$500,000 transaction and kept Native American Natural Foods alive and growing.

In the coming weeks, we expect to complete the second \$500,000 loan from the Clearinghouse CDFI. But we still have not found the necessary equity capital to build Native American Natural Foods into the large, high-performance company needed to really have the economic and social impacts that Indian country requires. We are

currently studying the use of New Market Tax Credits to access the equity and capital to facilitate this growth.

I share this example with you to show the extremes that we had to go through just to survive. And even with the help of the top-rated attorneys at Patton Boggs, we were unable to utilize the federal loan programs that were intended to help businesses in our situation. This causes great concern for Native American businesses that do not have our national reach or the highly experienced and committed help we received from Patton Boggs. Do they really have a chance to grow?

There is no doubt that being a cash-constrained business increases our risk and our operating costs and limits our growth.

### **Native American Natural Foods: A Success Story Striving to Happen**

As we celebrate the fourth anniversary of Native American Natural Foods, let's look at what we have accomplished:

- We now have nine products -- six ready-to-eat shelf stable products and three heart healthy frozen buffalo hot dogs.
- We have created 16 full-time jobs on the reservation and the equivalent of four part-time jobs. For most of our employees, this is their first private-sector job.
- Our products are distributed nationally by United Natural Foods (UNFI), KeHE/Tree of Life, and Nature's Best.
- They are also sold by the case through our customer care center (800-416-7212) and directly to the consumers on Tankabar.com.
- Tanka products are sold in more than 4,000 locations in all 50 states and more than 275 Native American reservations.

While Tanka products are a popular item at Mount Rushmore, they are not sold in the U.S. Senate cafeteria or any government building in Washington, D.C., with the exception of the National Museum of the American Indian.

Syndicated industry sales data by Spins for August 2012 shows the Tanka Bar has grown by more than 202 percent in sales, representing more than 50 percent of the growth in the category. And four of our products are now in the top 16 nationally. This data is based on actual cash register scans at the store level and proves customer acceptance of the product.

Tanka Bar Spicy Pepper Blend was recognized in 2010 by *Backpacker Magazine* as one of the best new products of the year. In May 2011, *Golf Digest Magazine* named Tanka Bar as a bar that every golfer should have in the bag.

Tanka products are the official snack of the Oglala Sioux Tribe; certified as Native American Made by the Intertribal Agricultural Council; USDA-approved; certified by the Gluten Intolerance Group (GIG); and certified as a sustainable product by Green

America. We have won numerous awards for both entrepreneurship and our products. Most recently, we were given the 2011 Innovation Award by the Social Venture Network.

We have built this brand through the innovative use of social media. Every staff person has been trained and is expected to use social media every day to build brand awareness. By building a cross-publishing platform, we have built a web experience that attracts more than 50,000 visitors per month and empowers our staff to interact with consumers and retailers nationally, effectively breaking the economic isolation of the reservation.

Social media has enabled us to build the Tanka brand without having to buy any advertising other than what is required by some national retailers. Just last month, we were approved to start selling our product into Whole Foods, the largest natural food retailer in the United States.

### **Looking to the Future**

The future of Native American Natural Foods is one of hope and opportunity that is limited by our access to affordable capital and business-based on-the-job training opportunities for Native American youth.

Anyone who watched ABC's powerful news magazine *20/20* presentation, "Hidden America: Children of the Plains," cannot help but see the challenges we face and that the needs are great. I view the show as a challenge to all of us who profess to want to improve the conditions of Indian people, to do more, to think bigger, to reach across the fence, the reservation boundaries, or political barriers to find solutions. This type of stagnant historical poverty has become the norm on South Dakota's Indian reservations. We find this unexcitable. It is time for change.

Here are a few solution-based ideas that we see on the ground level -- or the front lines, you may say -- that would help:

- We need to recognize that the solution to economic development in Indian country is within the creativity, courage, and commitment of Indian people.
- We need to look at the Population growth on South Dakota Indian reservations as opportunity, not as a problem.
- Work with these young people to give them the opportunities so they can see a future of hope and promise and become the entrepreneurs of tomorrow!
- We can no longer subsidize off-reservation businesses with capital and subsidize labor and expect it to grow the economy. We need to find ways to incentivize larger, more profitable companies to support Native-controlled business from minority ownership positions.
- **Renew the American Indian Employment tax credit for job creation.** But this credit has to be transferable to the minority shareholder at 100 percent value to encourage larger, more profitable companies to partner with reservation-based businesses.

- **Create a four-year Tax Holiday** for all profits made from investments on reservations where the unemployment rate is more than 30 percent.
- **Make exceptions to the 20 percent equity requirement.** Within the authorizing legislation of the BIA Loan program, there is a provision to allow for exceptions to the 20 percent equity requirement, but it is seldom or ever used. There needs to be a requirement to waive this for growing businesses within impoverished areas. And exceptions made for that business that lost equity, but was able to survive the economic downturn of 2008.
- **Support equity from Indian country's CDFIs, CDCs.** Also, in cases like ours in Indian Country where CDFIs, CDCs and other non-profits -- whether they are chartered by a state or a tribe that holds minority ownership as the result of managing Federal, state or foundation funds in the project -- should not be required to provide a guarantee for a business in which they do not hold any decision-making authority.
- **CDFIs:** Please continue to grow the Native American CDFI program; expand its capacity to provide technical assistance contracting to larger growing businesses to help plan and execute expansion.
- **Support New Markets Tax Credits for reservation-based business.** Native American Natural Foods has had preliminary discussions regarding a New Markets Tax Credit transaction that may assist us in obtaining equity for our corporation. Equity is extremely difficult for small businesses, yet vital for obtaining debt capital and continued growth. I understand this program has helped many small businesses and has created thousands of jobs across the country. This is an extremely important initiative at this time.
- **Healthy Foods Initiative:** The recent emphasis on "healthy foods" in this country is a concept we certainly support. As the creators of a healthy snack food, we recognize the important role nutrition plays in health care, education, and worker productivity. However, we are concerned that the current policy emphasis for "Healthy Foods" is seemingly focused solely on creating grocery stores in "food deserts." We encourage those involved in this initiative to strongly consider supporting those businesses that are actually creating "healthy foods"; such as companies like Native American Natural Foods. Grants and loan dollars earmarked for those creating and promoting healthy foods will provide a much better return than what is projected from additional grocery stores and markets.
- **Agricultural:** I understand U.S. Sen. Casey from Pennsylvania is planning to introduce a new bill, which through USDA, will create a new loan fund, backed by a partial federal guarantee similar to the SBA 7A program, for helping support a new generation of local farmer entrepreneurs to provide fresh local food to meet the rapidly growing demand across the country for locally grown foods. It includes some funds for technical assistance to help ensure the success rate of these new farm entrepreneurs. This is a much-needed program and needs to include a Native American set-aside for the larger land-based Tribal areas. We would also like to see the bill increase to create lending opportunity for Native Americans who wish to become buffalo producers.

- **Return the buffalo to the economy and diets of Indian people.** We also would like to see a tax-incentive to encourage investments with Native American buffalo producers. While the buffalo industry is growing fast and doing well, there is little opportunity for Native American buffalo producers to enter the industry. In 2010, we were only able to purchase about 22 percent of the buffalo needed for the Tanka Bar from Native producers. The historical record supports an argument that the last time the Lakota People had a healthy sustainable economy it was based on the buffalo. This record also shows that the Buffalo were destroyed as an act of war to subjugate Indian people. It is clear that many Native peoples and tribes would like to return to a parcel buffalo-based economy. And the Federal government has a responsibility to support these efforts every way possible. We have a collective vision of returning buffalo to 1,000,0000 acres of Native lands in the next 10 years and have launched the Tanka Fund to make this dream a reality.
- **Investor protection.** In order to attract more investments on to reservation-based CDFIs, their needs to be some deposit insurance and some tax incentives to help CDFIs provide higher levels of funding as a business grows.
- **The BIA Loan Guarantee Program.** Needs to be expanded to tribes who invest in private businesses outside of their own. Currently, the largest tribal lender in Indian country is the Mdewakanton Sioux Tribe. They only lend to tribal enterprises. But in order to incentivize more tribes to lend or invest in small businesses there needs to some protection on investments.
- **Transportation:** We would like to see you continue to grow the much-needed public transportation programs in Indian country. You have started a great and much-needed program that needs to be supported to grow.
  - We would also like to make you aware of the challenges In shipping and receiving. When shipping LTL; trucks only come to the reservation two times per week, even UPS who markets itself as logistic does not acutely guarantee overnight shipping from the reservation.
- **US/Mail:** It is a business necessity to have daily mail delivery on the reservation. Any cut back in mail service will increase the economic isolation of the reservation.
- **State/Tribal Gaming Compacts:** The Federal government needs to use its influence with States to make sure that investments that are made by tribes are allowed to grow to their full potential. For example, the Mdewakanton Sioux community made one of the largest business loans ever on the Pine Ridge Reservation to the Oglala Sioux Tribe to build a new casino and hotel. But, the state refuses to allow them to put in all the machines they could because of the states protectionist policy toward off reservation private casinos. This interferes with the growth of commerce on the reservation. It is also true that protectionist policy limits competition which reduces value of the protected Industry over all.
- **Business evaluations:** How business value is evaluated in Indian country is a large and complicated issue since many businesses are on trust land and not easy transferable. It is also true that successful businesses; owe our success to our relationships with our vender/distributors and, most importantly, our customers.

- Brand Value: What bankers often refer to as blue sky, but currently there is no method to establish Brand Value without selling the company. But if your goal is like ours to build a sustainable economy on the reservation, you do not want to sell. But even when we sell equity to a tribes non-profit or social investors who sees the value in our triple bottom line approach of money, people and lands, we are told that these investors do not count as real investors because they are not making a financial decision that can be used to establish value. As if the lender or Government bureaucrat has some right to decide what an investors motivation is. It also ignores the reality that only a courageous investor with deep belief in helping to give people opportunity's that have been denied it throughout all of history would make such a investment. Last, it ignores the fact that social and sustainable investing is growing and needs to grow as a result of limited government recourses to fund market based solutions to the problems of poverty and changes in our environment. It is estimated that socially motivated investing is now over \$60 billion and growing.
- **Facilitate the use of Confirmed Market Forecast as collateral for Small Business** – Some mechanism has to be created (if it does not already exist in the form of the CDFI) to provide operating capital to growing businesses based on a high-degree of due diligence and verification of the growth potential of that business. The lending model simply has to be de-coupled from the requirement for hard-asset collateral and coupled to verification of the growth potential and cash-flow analysis for businesses, as is the practice for most of the new and emerging musiness models.
- **Support small sustainable business growth by making lending to small businesses a banking requirement.** It is common knowledge and most experts agree that small business is the key to job creation. But every small business owner I know will tell you that the Banks are not lending to small business. While the banks have received The \$30 billion of the Small Business Lending Fund (from the Small Business Jobs Act of 2010. According to both CNN and The Huffington Post, (among many others,) 87% of the community banks that potentially qualified didn't apply. Out of the ones that did apply, 40% of those ultimately didn't qualify. Of those that did qualify, many, like M&T Bank and MB Financial are holding onto their cash and cynically using the money to acquire other banks and buy investments for their portfolios. Dozens more like Security Business Bank of San Diego are simply swapping their federal rescue money for potentially cheaper financing from the same source: the government.

**Mark Wilson, a former bank examiner for the Federal Reserve characterizes the program this way, "This is a below-the-radar bailout for community banks," "What we lack here is oversight and true accountability."**

Existing federal programs aimed at making critical operating capital available to emerging and growing businesses have failed to have any significant impact on

job creation and the only impact Indian country is to create false hope as we waste percuss time chassing funds from a system that does not work. The result is forcing many small businesses into using credit cards to pay for operating supplies. I have had to do it times. Often costing them 12%-16% or even more than 20% interest. In effect, the banks can increase profit by not approving loans. Worst yet are the predatory lenders that victimize our small business and our employees.

- **Create regulation** that grades banks and their access to capital on how well they serve smaller independent businesses as well as sustainable business models. While we in small business are often required to use our creative energy's to navigate the federal, state and banking bureaucracy in order to survive, we are not the ones lobbying for less regulation or oversight. We want clean air, clear water, safe food, better schools and affordable college education. But we also want and need a level-paying field. 99% of the American people support small independent businesses. Indian people are at the bottom of the 99% percentile in America and are hungry for opportunity. The Oglala Lakota people are people in transition from poverty to sustainable healthy communities. There are more Indian business owners than any time in history. There are more Indian people in college than ever before. The coming generations is asking for our help. We need to open the doors of opportunity by doubling and tripling our efforts to give access to markets and Capital .Native American Natural Foods is proud to be part of this transformational movement and look forward to working with all of you to find solutions to the many problems we face.

I would like to thank Sen. Johnson and members of this committee for allowing me to share my thoughts here today. Your tenure in the Senate is at a pivotal time in American History. The streets, coffee shops, web sites and social networks of American are filled with frustration as the poverty and neglect that has besieged Indian reservation is now spreading across America.

I challenge each of you to please listen to the American people who want and need change. America has the courage, talent and resources to build a healthy, sustainable, fair and just economy. You have the power, use it wisely. Inaction is not an option.