

## **RURAL DEVELOPMENT**

### **Statement of Doug O'Brien, Deputy Under Secretary for Rural Development Before the United States Senate Committee on Banking, Housing, and Urban Affairs**

#### **Hearing on "Addressing the Housing Crisis in Indian Country: Leveraging Resources and Coordinating Efforts" March 8, 2012**

Chairman Johnson, Ranking Member Shelby, and Members of the Committee, I want to start by thanking you for inviting me to testify here today and to represent United States Department of Agriculture (USDA) on the issue of housing in Indian Country.

When we talk about housing at Rural Development, we often speak of the entire rural community—its infrastructure and facilities, its businesses, as well as the individual homeowner. Programs at USDA span a wide range of areas that have an impact on Indian Country, including food safety, housing, business development, telecommunications, water systems, crop insurance, nutrition, research, and of course the programs designed to assist farmers. According to the National Congress of American Indians, agriculture is the second largest employer in Indian Country. As such, Secretary Vilsack is committed to a USDA that faithfully serves Tribal governments, Tribal communities, and individual American Indians and Alaska Natives.

The Office of Tribal Relations (OTR), located within the Office of the Secretary, is the primary point of contact for Tribal consultation and collaboration within USDA and works with all USDA agencies to ensure that relevant programs and policies are efficient, easy to understand, accessible, and developed in consultation and collaboration with the American Indian and

Alaskan Native governments they impact. OTR is responsible for improving our government-to-government relations between USDA's various agencies and Tribal governments, advising Secretary Vilsack on Tribal issues and concerns, Tribal consultation, the Alaska Native Claims Settlement Act (ANCSA), and issues impacting Tribal members. OTR works cooperatively and collaboratively across USDA to build an integrated approach to issues, programs, and services that address the needs of American Indians and Alaskan Natives. We believe that the efforts and commitment of OTR in partnership with all USDA is guiding the Department towards a more flexible and sustainable approach in addressing the needs of Tribal governments, the communities they serve, and the individuals living on Tribal lands.

Since President Obama's 2009 Memorandum on Tribal Consultation and Collaboration, a dedicated team from across USDA has been working to re-examine existing departmental policies and regulations regarding Tribal collaboration and consultation and how USDA programs are utilized in Indian Country. In 2010 we held a series of joint consultation regional events where we heard from Tribal elected officials and their representatives about program rules and the challenges to stronger utilization of USDA programs in Indian Country. Rural Development took part in those regional venues and RD staff and leadership have participated many times at the local, regional and national level in ongoing dialogue with Tribal leadership.

On June 9<sup>th</sup>, 2011 President Obama signed an Executive Order establishing the first White House Rural Council. The White House Rural Council's goal is to improve coordination of programs across government and encourage public-private partnerships to promote increased economic

prosperity and improved quality of life in rural communities. Chaired by Secretary Vilsack, the Council is responsible for helping coordinate Federal investments in rural areas and continues to hear from a wide variety of rural stakeholders, including Tribal governments. The Council breaks down program silos and finds areas for better collaboration and improved flexibility in government programs. To further this objective, in August 2011 the Rural Council convened the White House Native American Business Leaders Roundtable with Tribal representatives, economic development experts, and Federal policymakers. At this roundtable participants discussed challenges Tribal businesses face, including access to capital, job skills and training shortfalls, and limited broadband deployment and adoption in Tribal communities. Just last week, Federal representatives and Tribal business and government leaders participated in a Capital Access roundtable at the Reservation Economic Summit (RES) 2012, where we continued to delve deeper into the challenges and barriers faced in accessing necessary capital to build strong rural economies in Indian Country. The feedback and insight gained by my colleagues is being incorporated into our ongoing efforts to address economic growth in Indian Country, and USDA looks forward to all we can achieve with our partners in the Federal government and in Indian Country to create more opportunity in Native American communities.

USDA is also addressing civil rights complaints that go back decades in order to pave the way for new and stronger relationships with the rural farming and ranching communities found throughout Indian Country. In October 2010, Secretary Vilsack announced the settlement of a decades-long discrimination case brought against the Department by Native farmers and ranchers: *Keepseagle v. Vilsack*. Up to \$760 million in monetary relief, debt relief, and tax relief is available to successful claimants. The claims period closed in December 2011 and we

anticipate payments to successful claimants this calendar year. As part of the settlement of the Keepseagle case, the Secretary will appoint a Council on Native American Farming and Ranching that will meet regularly to further advise USDA on how our programs can build strong rural farming and ranching communities. We expect the appointment of the Council members to occur in the coming months.

Furthermore, USDA continues to be an active participant on the Tribal Infrastructure Task Force to address the ongoing need for safe drinking water and basic sanitation in Indian Country. Between 2003 and 2009, the combined funding from the Task Force Agencies—USDA, Environmental Protection Agency (EPA), Indian Health Service (IHS) and the Department of Housing and Urban Development (HUD)—provided 80,941 Tribal homes access to safe drinking water and 43,562 Tribal homes access to basic sanitation. In August 2011, USDA Rural Development provided a \$12 million grant and \$3.34 million loan to Mni Waste Water Company to complete phase II of a multi phase project to replace a failing water system that serves the Cheyenne River Sioux Tribe Reservation, as well as Meade and Perkins Counties in South Dakota. In fact, prior to this investment Rural Development hosted an interagency funding meeting with the Cheyenne River Sioux Tribe where the tribe spelled out its priorities and challenges associated with this project in front of Federal officials from USDA, the Indian Health Service, HUD and EPA – all of which also actively participate in the task force. These numbers demonstrate significant progress made by the Task Force agencies, but we recognize that more work is needed. To this end, the Task Force is refocusing its goals around the principle that access to safe drinking water and basic sanitation should be provided through entities that are sustainable and implemented through integrated agency planning that links the development

goals of the tribe with the need for such services and infrastructure. This principle fits well with USDA Rural Development programs that are committed to improving the economy and quality of life in rural areas.

In recent months, USDA has been working to improve our program delivery to Tribal governments, communities and individuals they serve. As an outgrowth of the Keepseagle settlement, USDA has established a technical assistance network in partnership with the Intertribal Agriculture Council. The network works across Indian Country in 13 regional locations to provide needed technical assistance on the ground so that Tribal governments, communities and individuals have a stronger understanding of USDA programs and of how to strategically plan for their communities' growth. And finally, USDA launched a Strike Force initiative in southeastern states that is now expanding to western states with substantial Native American populations. The Strike Force initiative ensures that the Federal agencies (both within and beyond USDA) partner to provide effective and targeted technical assistance. These technical assistance efforts do not duplicate one another; instead, they complement and catalyze the efforts of staff from numerous agencies. USDA recognizes that Federal program managers need to strive to provide seamless technical assistance and we also recognize that in many rural communities, this type of targeted technical assistance is needed to uncover the best strategies to vision and build strong communities and families. We believe that these efforts will ensure the unique challenges of Native Americans, living both on and off reservations, will be addressed.

To better serve tribes and to ensure Rural Development investments flow onto Tribal lands, it is both pragmatic and necessary that we work in cooperation with elected Tribal officials, adhere to Tribal ordinances and laws, and partner with other Federal agencies such as the Indian Health Service, the Bureau of Indian Affairs (BIA), HUD, and many other Federal partners. Rural Development has exceptional staff in our nationwide network of state-level field offices and area offices across the rural landscape. These individuals work closely with Tribes and dedicated partners on a daily basis in the for-profit and non-profit sectors. Rural Development staff in the local offices deliver programs for all three agencies in the Rural Development mission area—the Rural Business and Cooperative Service, Rural Housing Service and Rural Utilities Service. By being located in rural communities, we are able to cultivate important relationships with Tribal leaders, Tribal professional staff, lenders, realtors, community-based organizations, redevelopment authorities, leadership groups, and others. Each state-level Rural Development office maintains a Native American Tribal Coordinator to assist Tribes with their development interests by providing technical assistance and programmatic knowledge throughout the application process. Rural Development provides financial programs to support essential public facilities and services such as water and sewer systems, housing, health clinics, emergency service facilities, electric, telephone and broadband services. Rural Development promotes economic development in rural areas by providing loans, loan guarantees, grants, and other assistance to applicants, including tribes, Tribal members, individuals and families, banks, and community-managed lending pools. And RD, I am proud to say, has a long history of investing in Tribal economies. From 2001 to 2011, Rural Development assistance benefiting tribes totaled more than \$3 billion. I believe we can continue on this path and even do more, if funds are available.

On the issue of housing in Indian Country, Rural Development understands the history of challenges as well as the opportunities that lie before us. USDA Rural Development continues to work closely with national organizations like the National Congress of American Indians, the National American Indian Housing Council (NAIHC), and the National Center for American Indian Enterprise Development to communicate Rural Development's program information to their members and affiliates. Over the past 10 years, our Rural Housing Service has invested nearly \$1.3 billion dollars that has benefitted American Indians and Alaska Natives. Our Single Family Housing (SFH) Direct and Guaranteed loan programs helped over 7,200 American Indian and Alaska Native families become homeowners. RD's SFH Home Repair program funded home repairs for over 2,900 American Indian and Alaska Native families.

Over the same period, our Multi-Family Housing (MFH) Direct Loan program supported the construction of 67 properties and made nearly 1,200 rental units available to Tribal members. Housing Preservation Grants have helped repair or improve 1,412 American Indian and Alaska Native occupied housing units. Our MFH Guaranteed Loan program has supported the construction of 5 properties with 217 rental units available to Tribal members.

We have seen the impact of such projects first-hand. Just last month, our Under Secretary for Rural Development, Dallas Tonsager, had the privilege of taking part in a ribbon cutting ceremony held by the Maliseet Tribe to celebrate their first multi-family apartment complex. Working with our state office in Maine, the Maliseet Tribe broke ground in November 2010 at a

time when the Tribal Housing Authority had 40 families on a waiting list for housing. This six unit housing complex, the first Multi-family housing facility funded in part by USDA Rural Development on Maliseet land, is a step in the right direction toward providing affordable housing to this community. But we would like to do more throughout Indian Country, and we are working to develop additional solutions to increase the availability of our loan programs to Tribal lands.

Over the last year, USDA staff have been meeting regularly with BIA staff to discuss land and lending issues that create challenges when extending credit for projects on trust land. As a result of these meetings a new MOU between USDA and BIA is currently being drafted which will improve the working relationships between USDA and BIA staff, allowing BIA personnel to better understand each of RD's programs and the associated technical requirements for delivery to American Indians, Alaska Natives and Indian tribes, and our own staff to better understand BIA responsibilities. On the subject of home ownership, the MOU will also foster collaboration to increase home ownership as well as home repair and rehabilitation opportunities by identifying and addressing barriers to leasing, mortgage approval, lien perfection, and foreclosure proceedings in Tribal courts. I am hopeful that this MOU will pave the way toward easier access to RD programs and ultimately provide increased homeownership opportunities in Indian Country.

RD has also been working hard to reduce the burden of costs associated with homeownership on Tribal lands. Historically, insurance and insurance-like products have been unavailable, difficult

to access, or expensive on trust lands owned by tribes and Tribal members. In some instances this lack of insurance may have been an impediment to utilizing Rural Development financing for projects on Tribal lands. In practice, Rural Development requires Federal and applicable state laws and regulations to be followed when insuring Rural Development financed projects, but barring those limitations there is no legal or programmatic reason to deny the use of an appropriate insurance-like product on any project financed through Rural Development's Single Family Housing Direct Loan programs, and RD is working to develop solutions. The AMERIND Risk Management Corporation is a risk management agency that administers a tribally owned risk management pool for coverage of homes and other structures on Indian lands where there has been a lack of affordable insurance. Through discussions with AMERIND, RD is optimistic that we will be able to bring them into the insurer pool for RD projects, and normalize the use of this product, which will make access to our housing products more amenable in Indian Country. A Rural Development Administrative Notice was published in November 2011 advising staff that the use of AMERIND coverage could save borrowers money and increase the available capital in Native communities.

We have worked hard with the BIA, HUD, the VA and NAIHC on all of these issues over the years. But we still need to improve access to our programs in any way that we can. Hopefully, trust reform and the BIA's new leasing regulations will help. But agencies, Rural Development included, will need to think creatively about how they can best provide their financing products to Tribal lands.

We look forward to publishing a final rule on the Substantially Underserved Trust Areas (or SUTA) provision in the weeks ahead. RUS published a Proposed Rule in December 2011 and closed the comment period on January 17<sup>th</sup>, 2012. Once published, the final rule will allow RUS to make our water, electric, telecom and broadband programs more affordable and accessible for projects financed within Trust Areas. We need to do a better job of working across agencies, both in the field and in Washington, DC, so that we better know each of our missions and capabilities, which will better enable us to resolve issues when they arise. We also need to work more closely with tribes so that Tribal leaders, Tribal councils and Tribal courts better understand the steps that they can take on their own as well as in partnership with Federal agencies to create more homeownership opportunities on Tribal lands. And finally, we need to work more closely with lenders to make sure the proper incentives are in place so that Federal loan guarantee programs are also used on Tribal lands. Our recent work with Tribal communities and other government entities makes me hopeful that we can continue to make progress on these issues.

I want to thank you for the Committee for the opportunity to speak here before you today.