



NATIONAL CONGRESS OF AMERICAN INDIANS

January 31, 2018

The Honorable John Hoeven
Chairman, Senate Committee on
Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Tom Udall
Vice-Chairman, Senate Committee
on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

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RE: Oversight Hearing on "Breaking New Ground in Agribusiness Opportunities in Indian Country"

Dear Chairman Hoeven and Vice Chairman Udall:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative organization of American Indian and Alaska Native tribal governments, we write to submit testimony requesting that the Committee on Indian Affairs work with the Committee on Agriculture, Nutrition and Forestry to include Indian Country's priorities in the next Farm Bill. For far too long, tribal governments, tribal producers and Native people have been left out of the Farm Bill. Because of this, Indian Country's agriculture, nutrition, conservation and forestry have not yet met their full potential. This Farm Bill is the perfect opportunity to include Indian Country so that all of America can benefit from this very important piece of legislation.

Agriculture is a major economic factor for rural tribal communities. The 2012 Census of Agriculture conducted by the National Agricultural Statistics Service (NASS)¹ noted that Indian Country has:

- 56,000 American Indian and Alaska Native Farmers and Ranchers;
- Over \$3.2 billion market value of products ; and
- \$1.4 billion in crops and \$1.8 billion in livestock and poultry.

The Farm Bill reaches many aspects of life in rural America, and in Indian Country as well. Native farmers and ranchers are most directly impacted by this piece of legislation. Tribal governments have been left out of the Farm Bill, excluding them from critical programs that would improve their communities. In this Farm Bill, we ask Congress to ensure Indian Country has access to all USDA has to offer. This is the time for us to work together to ensure the Farm Bill helps all Americans.

¹ NASS has acknowledged that this data is substantially undercounted and the economic impact is likely much greater than \$3.2 billion.

and the Department of the Interior (DOI) have shown to be an extremely successful way to deliver federal programs in Indian Country. This successful model should be extended to USDA Nutrition programs. The devolution of federal funds and service delivery allows Tribal governments increased programmatic and administrative responsibility and minimizes federal reporting burdens, monitoring, and oversight. Smaller, more local solutions are needed in USDA Nutrition programs and Tribes know how to deliver those programs for the benefit of their communities.

For years, NCAI has called on Congress to fully fund the Nutrition title and its programs. Native people utilize many Nutrition title programs including SNAP, the Restaurant Meals Program; Nutrition Education and Obesity Prevention Grant Program; the Food Distribution Program on Indian Reservations (FDPIR); the Emergency Food Assistance Program; the Commodity Supplemental Food Program; the Senior Farmers Market Nutrition Program; the Fresh Fruit and Vegetable Program; the Food Insecurity Nutrition Incentive Program; the Healthy Food Financing Initiative; and the Agriculture Service Learning Program. Again, we ask that Congress fully fund these critical programs. Title: Nutrition

Recognize Tribal Governments and Tribal Law in the Conservation Title. All sections of the Conservation Title should recognize that tribal governments, tribal producers, and tribal entities or organizations created for conservation and natural resource protection purposes have full access to every program. Wherever there is a reference to “state” or “local” or “regional” agricultural producer, the terms “*tribal*” should be inserted into that section to ensure that any inadvertent failure to list tribal governments, tribal producers, or tribal organizations does not preclude them from participating or relegate them to a lesser importance or priority within the relevant section. Congress should ensure that any reference to “state law” in the Conservation Title reads “state law or *tribal law*.” This will acknowledge the conservation laws and codes of Tribal Governments and will allow Tribal Governments to enforce their laws over the lands which they have jurisdiction. Title: Conservation

Governmental Parity within Forest Service Programs and Authorities. Extending the Good Neighbor Authority to include Tribal governments, just as it does to state government and specifically including Tribes in the title of the State and Private Forestry Program will ensure that the Forest Service works with tribal governments. Partnering together, in a cooperative manner, to manage the nation’s forests and tribal forests alongside other state and local governments and private landowners is critical to helping our forestlands recover from wildfire and become healthier. Title: Forestry

Recognize Tribal Law for Supplemental Agricultural Disaster Assistance Programs. Section 1501(a)(1)(B)(iv) should be amended to read: “a corporation, limited liability corporation, or other farm organizational structure organized under Federal, State law *and Tribal law*.” The Federal Emergency Management Agency (FEMA) acknowledges Tribal law by allowing Tribal Governments to issue Tribal Disaster Declarations, just as States do.² Agricultural Disaster Assistance should be consistent with other Federal disaster protocols in Indian Country, like FEMA. This addition creates parity for tribal governments and acknowledges the authority of entities organized under tribal law or under federal law such as Section 17 corporations. Update the livestock definition in Section 1501(a)(3) to include other commonly raised livestock like “reindeer,” “caribou,” “elk,” “horses,” or other animals raised or harvested in tribal communities.

² Sandy Recovery Improvement Act of 2013. <https://www.fema.gov/blog/2013-01-31/changing-laws-better-recognizing-tribal-sovereignty>

(such as water systems, electric, and other utilities) because there is no other governmental entity that can handle these functions. Title: Rural Development

Expand Tribal Access to the Rural Community Development Initiative Grants. Tribal Nations have been greatly underserved in rural development, and the Rural Community Development Initiative Grants are the gateway to all Rural Development funding. Tribal planning processes tend to be siloed into grant-driven programs for housing and transportation. Tribes need more resources to integrate planning for economic development and jobs, agriculture and natural resources, and broad-scale planning for the future needs of tribal communities. Rural Development planning is especially important currently, with the need to implement the Indian Trust Asset Management Reform Act, to plan water development, with the FirstNet broadband project, tribes need planning before they can access the benefits. The federal government last supported comprehensive planning in Indian Country in the 1980's, but those planning efforts must be updated for a new era. Title: Rural Development

Establish a Permanent Rural Development Tribal Technical Assistance Office. Establish a permanent office providing technical assistance across all RD funding authorities via a cooperative agreement with USDA. The complexities of lending and infrastructure establishment in Indian Country call for the establishment of such an office that can prepare and monitor lessons learned, establish user friendly application systems, and assist staff at the tribal or business level in preparing applications. The trust responsibility of the federal government to tribes supports the need to establish such assistance interventions. RD has field staff that assist agency staff and the applicant in analyzing financial viability, key engineering specifications, and related technical requirements for more complex infrastructure projects. Title: Rural Development

Maintain the Under Secretary for Rural Development Position. Maintain an Under Secretary for Rural Development in the 2018 Farm Bill and all additional sequent legislation and appropriations packages. Having an Under Secretary whose primary duties are to focus on RD programs and funding is critical for Indian Country and rural America. Any changes that would impact the Under Secretary role for Rural Development must be the subject of tribal consultation. Title: Rural Development

Uplift America by Supporting CDFIs Loan Authority. Develop a process to allow small, new and emerging Community Development Financial Institutions (CDFIs) access to loan authority. The concept of batching and obligating all loan guarantee authority annually is a game changer. The requirements put upon CDFIs to participate in this endeavor are patently prohibitive. Only the largest CDFIs could secure any meaningful funding levels, and some had threatened litigation to do that. Title: Rural Development

Extend Rural Electric Loan and Grant Program Authority to CDFIs. Rural electric cooperatives are uniquely poised to be economic development drivers in their communities. Often, they choose not to avail themselves of this opportunity. In cases where a rural electric cooperative chooses not to participate in this program in the past, local CDFIs should have the opportunity to carry out the function. Title: Rural Development

Maintain Rural Water Program Funding. Rural water and wastewater systems are essential to community support and economic growth in Indian Country. Tribal governments, individual Indian producers, reservations, and remote and isolated communities will be severely undercut in the

in an FSA loan program. The general lack of private lending available in Indian Country renders the requirement onerous and unduly burdensome. Title: Credit

Parity for Indian Country Agriculture Production. With over 50 percent of the \$3.4 billion Indian Agriculture Industry being comprised of cattle, it is critical to ensure that risk management products be designed to meet the needs. Currently there are few options available; and those that do exist require up-front premium payments (LFP, LRP). Simply changing the timing of premium payment to coincide with production would ease the burden of participation for Indian Producers. Increasing the federal subsidy rate for this type of programs has also been demonstrated to incentive participation and mitigates federal outlay in times of disaster. Title: Crop Insurance

Support Traditional Native Foods and Traditional Ecological Knowledge

Native people have always put food on their tables. Native traditional foods have been a part of our culture for millennia. Returning to traditional Native foods will lead to healthier Native populations, leading to less healthcare costs and to more tribal self-determination through food sovereignty. Traditional foods also have the potential for breaking into new markets leading to further economic development in Indian Country.

Native people have always been tied to their land. Native people were the first Americans to carry out conservation practices. The U.S. Fish and Wildlife Service defines Traditional Ecological Knowledge as “the evolving knowledge acquired by indigenous and local peoples over hundreds or thousands of years through direct contact with the environment.”³ USFWS continues “although the collection of TEK is not government-to-government consultation, TEK is one way federal employees can honor the federal trust responsibility to tribes with regard to resources of mutual interest.” Traditional Ecological Knowledge should be recognized in the Conservation title to allow tribal knowledge to better inform conservation practices.

Supporting traditional foods and traditional ecological knowledge can take place in many titles of the Farm Bill: nutrition, research, horticulture, crop insurance, trade and, conservation. Congress can support Traditional Foods and recognize Traditional Ecological Knowledge by including the following recommendations in the Farm Bill.

Require the Food Distribution Program on Indian Reservations to purchase traditional foods. Requiring FDPIR traditional food purchases (bison, wild rice, salmon, blue corn, and other products) to be a regular part of food package purchases and not require supplemental or special appropriations to purchase these foods. This will lead to healthier food distributions while also promoting business development through agriculture on tribal lands. Title: Nutrition

Agricultural Research Service Projects on Traditional Ecological Knowledge. Launch and support a significant number of research projects within the Agricultural Research Service that focus on the important role that traditional knowledge plays in the environmental, natural resource, ecological, food science, nutrition, and health arenas. Funding provided in these unique content areas must be

³ US Fish and Wildlife Service, Traditional Ecological Knowledge for Application by Service Scientists Fact Sheet-<https://www.fws.gov/nativeamerican/pdf/tek-fact-sheet.pdf>

develop traditional ecological knowledge-based technical standards that will control the implementation of all conservation projects allowed under the Farm Bill. This new section would codify current NRCS practices that encourage traditional ecological knowledge-based conservation and would further recognize the fact that tribal jurisdiction and use of traditional practices to improve conservation project implementation are decisions best left to the tribal governments and individual Indian producers who live on those lands. These traditional ecological knowledge-based standards already have a solid scientific basis and are acknowledged by various federal research organizations and agencies. Title: Conservation

Tribal Technical Committee. Require each state conservationist to establish a separate tribal technical committee should any tribal headquarters exist within their state boundaries or any land under the jurisdiction of tribal governments or the BIA. These tribal technical committees should be given the same respect and deference that is currently given to the state technical committee and each tribal technical committee shall be able to establish separate technical standards utilizing traditional ecological knowledge and, to the extent that they do so, such standards shall be the technical standards under which conservation programming can be deployed on tribal lands. Require establishment of state level inter-tribal, regional inter-tribal and national tribal advisory committees regarding conservation matters. Title: Conservation

Traditional Ecological Knowledge Consideration for Conservation Compliance. Consider traditional ecological knowledge whenever the Secretary determines the level of compliance of landowners who have lands or resources enrolled in any of the Conservation Title programs, particularly when determining whether a meaningful stewardship threshold has been reached. Title: Conservation

Improving Interdepartmental Coordination between USDA and DOI

Improving inter-agency efficiencies should be addressed in this Farm Bill. Because of the nature of Indian Country's relationship with the Department of the Interior, specifically the Bureau of Indian Affairs and the Office of the Special Trustee, coordination between DOI and USDA is needed to achieve the best outcomes for tribal producers. This will ensure that meaningful assistance is provided by those who have deep familiarity with tribal governments, tribal law, Native communities, and the challenges unique to Indian Country.

Authorizing a USDA-DOI Technical Committee. Congress should authorize the Secretaries of Agriculture and Interior to develop a technical committee made up of tribal government representatives from each of the BIA regions to formulate a set of initiatives and programs that can be carried out under existing laws as well as a set of programs that may be needed under future conservation program authorities to improve the conditions of tribal lands and individual Indian-owned lands throughout the United States. Title: Miscellaneous

Cooperative Management of Adjacent Federal Lands. Since tribes continue to have legal, historic, and economic connections to adjacent federal forests, include a pilot program authorizing tribes and the Bureau of Indian Affairs (BIA) to conduct cooperative, discretionary forest restoration activities on Forest Service and BLM lands using existing regulations governing the management of Indian forests. Additional means and legal and financial arrangements that would support the cooperative management of forest lands with and through Tribes must be explored. Title: Forestry