

STATEMENT
OF
MICHAEL JANDREAU
BEFORE THE
COMMITTEE ON NATURAL RESOURCES
HOUSE OF REPRESENTATIVES
MAY 8, 2008

Chairwoman Napolitano, Members of the Committee, thank you very much for the invitation to appear before you this morning. I am Chairman Michael Jandreau of the Lower Brule Sioux Tribe. I have been Chairman at Lower Brule for 29 years. With me today is Chairman Brandon Sazue of the Crow Creek Sioux Tribe, members of our Tribal Council, and our Legal Counsel, Marshall Matz. Chairman Sazue was just installed in his new position two days ago, on May 6th.

I would like to express my appreciation to Representative Herseth Sandlin for introducing the Lower Brule and Crow Creek Compensation Act, H.R.155. We are well served in South Dakota by Ms. Herseth Sandlin. Senators Thune and Johnson have introduced a companion bill in the Senate.

As you may know, the legislation before you today has been developed over the course of many years. An earlier version of the bill passed the Senate three times in the 108th Congress and was again reported by the Senate Indian Affairs Committee in the 109th Congress. After the bill was reported in the 109th Congress, however, Chairman McCain then asked the GAO for a report on the legislation. A mathematical error was discovered and the legislation before you was modified in several important ways:

- The amount of compensation was reduced. For Lower Brule the amount in the bill was reduced from \$186 million to \$129 million, or by \$57 million. The Crow Creek amount was reduced by \$36 million, from \$105 million to \$69 million.
- A new Section 5 was added to the bill making it clear that as to Lower Brule and Crow Creek this legislation would be full and final compensation. If additional legislation were enacted for all other Missouri River Tribes it would not include any additional amount for our two Tribes.
- Section 5 also makes it clear that H.R. 155 would not be a precedent beyond the Missouri River Basin Program.

Madam Chairwoman, the Flood Control Act of 1944 may have been good for the United States, but it has been devastating for Missouri River Tribes. The Tribes of the Northern Great Plains are, by and large, the poorest Tribes in the United States. We have gaming but we are located so far from any population center that gaming it is not a major profit center for our Tribes. Farming is much more important to the economy of Lower Brule than gaming. Several of our farm products are then sold nation wide under our Tribal brand name. Our popcorn is marketed under the brand name "Lakota Popcorn".

Several years ago, in partial compensation for the damage caused by Pick-Sloan, the Congress did enact two Infrastructure Development Trust Funds, one for Lower Brule (Public Law 105-132) and one for Crow Creek (104-223). We have used these funds to the best advantage of our Tribes. Meetings were held with our elders and other Tribal members to establish priorities and many critical projects have been undertaken. But we have only scratched the surface of what needs to be done to bring Tribal life and our Tribal economies into the mainstream of American life.

It was very painful for me to read the popular book, The World is Flat, and realize that the United States is outsourcing jobs to China and India when many American Indian reservations have an unemployment rate over 80% and a third world standard of living. Our health statistics do not exist anywhere else in the United States of America.

The Lower Brule and Crow Creek Compensation Act would enable our two Tribes to move forward with health care, justice programs, education, transportation, broadband, and our many other needs. It is for this reason that we are prepared to accept HR 155 as full and final compensation.

Finally, let me address the issue of cost. There is a modest cost to the bill; the exact cost will depend on the prevailing interest rate. My best estimate is that the bill will cost approximately \$6 million per year, \$30 million over five years or \$60 million over ten years. Lower Brule would have its trust fund increased by \$90.5 million and Crow Creek would have its trust fund increased by \$41.7 million for a total of \$132.2. At five per cent interest (5%) it would cost the federal government approximately \$6 million per year.

In 1996 and 1997, when the trust funds were enacted, the capitalization was considered an inter-governmental transfer of funds. As a result the capitalization was NOT scored as a cost to the United States. Specifically, the Senate Report said: “the deposit to the trust fund would be an intragovernmental transfer and there would be no net outlays associated with it”. Senate Report 105-146, at 18. H.R. 155 would amend the enacted trust funds and should therefore use the same CBO methodology.

Further, we ask that the Committee consider the modest cost of this legislation in the context of history and the revenue that is being generated each year by Pick-Sloan Program for the United States.

The Missouri River Valley, the longest in the country, drains one-sixth of the United States. The Flood Control Act of 1944, creating the Pick-Sloan Missouri River Basis Program included the construction of six dams, four of which are in South Dakota. (Gavins Point runs between South Dakota and Nebraska.) Two of these dams, Fort Randall and Big Bend flooded the Lower Brule and Crow Creek Reservations.

According to the Bureau of Reclamation, the Program was “designed to benefit the entirety of the Missouri River Basin” by providing hydroelectric power, flood control measures, navigational improvement, irrigation and recreational opportunities. “The Pick-Sloan Missouri River Project has provided an accumulated \$2.3 billion in flood control benefits from 1950 to 1999” declares their web site.

The power plants at the dams have a total capacity of producing 2.5 million kilowatts of electricity. The sale of this electricity produced \$437 million in 2006. **Over ten years, that is \$4.4 billion in direct revenue to the federal government (over and above the flood control benefits). We are asking for \$60 million, or less than a 1.5% of the revenue.**

The Tribes that had their land taken to build the dams and their water used to produce the electricity do not share in these proceeds. The legislation before you today is intended to compensate our two Tribes and finally provide some degree of fairness to what has happened. We believe that the Congress should look at the modest cost of our bill, \$6 million per year, in this context.

In short, the United States took our best land and our water (under the Winters doctrine) to produce electricity. The United States then sells the electricity. None of the proceeds from the sale of the electricity generated with our water on the lands that were Tribal lands goes to the Tribes. There is no division or splitting of the proceeds. Adding insult to injury, the Tribes are then charged for the electricity that we use. The Pick Sloan project may have been good for the country but it was not good for Lower Brule or Crow Creek.

This is fundamentally wrong! Further, we are not talking about injustices that were committed against Indian people in the 1860's. We are talking about this year, 2008. It is time to correct the record and enact legislation that compensates our Tribes fully and fairly for the land that has been lost and the resources taken.

Thank you very much for your consideration. I would be pleased to answer any questions.