

# Committee on Resources

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## TESTIMONY OF CLIFFORD LYLE MARSHALL, CHAIRMAN HOOPA VALLEY TRIBE

### BEFORE THE HOUSE RESOURCES COMMITTEE REGARDING SELF GOVERNANCE ISSUES AND RELATED MATTERS

October 8, 2003

Mr. Chairman, Members of the Committee,

Thank you for this opportunity to testify today about the Self Governance program. I am Clifford Lyle Marshall, Chairman of the Hoopa Valley Tribe. My invitation to testify referred to Self Governance as an experiment. Originally, Self Governance was referred to as a project; later amendments to the Self Governance Act designated it a program. Regardless, whether it's an experiment or a program, it is the most successful piece of legislation in advancing tribal government, developing tribal infrastructure, and advancing tribal self sufficiency.

I thank the Committee for having this hearing because, for the past two and a half years most of what has been talked about in regard to Indian affairs is the Cobell case and the Department of the Interior's Trust Reform proposal to address the Court's order in that case. The impression is that everything in Indian Country is bad, broken, mismanaged, has gone haywire, or run amok. I hope to express to you today that in many places in Indian Country, on many reservations as the tribal leaders today will testify, that very positive things are happening. I sense that many members of Congress are not familiar with the Self Governance program. So I thank you for giving us this opportunity to re-introduce the positives achieved through the Self Governance Program.

In 1988 Congress passed the Self Governance Act, an amendment to the Indian Self Determination Act of 1975. It did so because tribes and tribal leaders were complaining vehemently about the shortcomings of 93-638 contracting. In spite of the intent of the Self Determination Act, which allowed tribes for the first time to manage programs on their respective reservations, the BIA remained in complete control of programs by dictating contract terms and through heavy handed oversight that took 80 to 90 % of the federal funding off the top of Indian program funding. More importantly the programs designed by the BIA were not meeting the needs of the Indian communities. Tribes sought flexibility to adjust budgets and redesign programs.

In 1988, 10 tribes with a history of managing 93-638 contracts received a two year grant to design their own programs, draft their own compacts; and Self Governance was born. Today almost fifty percent (50%) of the tribes compact under the Self Governance Program. The Hoopa Tribe was one of the first tier of tribes and was the first to have its compact signed in 1990. Before 1988, however, the Hoopa Tribe had contracted most BIA programs under 93-638. Through Self Governance, the Hoopa Tribe has assumed management authority over all federal programs. Currently the Tribe manages fifty-three (53) programs. Hoopa was the first to compact health care with Indian Health Service in California and now has a hospital, a dental clinic and the only ambulance service and emergency room within 70 miles of the reservation.

One of the first priorities under Self Governance was to establish the first tribal court in California and assert jurisdiction over Indian Child Welfare cases. The tribe then established its own law enforcement department for resource protection and to enforce fishing regulations. Hoopas Law enforcement program is now the only one in the State that is cross deputized by the County which gives them the authority to enforce state criminal law on the reservation. This relationship has been in existence for the past eight years. The tribe has just passed its own civil traffic code.

We have compacted resource management and manage our forest lands under a ten-year forest management plan approved by the BIA that exceeds environmental standards required by Federal law. This plan has allowed our timber to be "Smart Wood" certified, a certification that allows lumber products produced from our timber to be exportable to Europe. The Tribe also owns and operates its own logging company creating seasonal employment and additional revenue from annual timber harvests. We also have

our own nursery to grow trees for replanting. Forestry management includes forestry protection, and Hoopa created its own Wildland Fire Protection Program. All tribal fire fighters meet the same qualification requirements of the United States Forest Service.

When Hoopa assumed forestry management, it also took over the BIA roads department. Though the reservation contains over one hundred miles of roads the Tribe receives \$113,000 a year for roads maintenance, not enough to maintain five miles of road. To maintain and upgrade our forest roads neglected for decades by the BIA a percentage of annual timber sales goes towards roads maintenance. Two years ago the Tribe invested in an aggregate plant that now helps subsidize the Roads program by paying the salaries of roads department employees with revenues generated from the sale of sand, gravel, road base, and cement.

Hoopa has its own Tribal Environmental Protection Agency (TEPA) that ensures that our resource management programs perform in compliance with Federal EPA regulations. TEPA is also responsible for enforcement of the Tribes solid waste ordinance. The Tribe has compacted realty from the BIA Regional office. Through tribal ordinances the Tribal assigns land to tribal members for housing, agriculture, and grazing.

The Tribe created a public utilities district that has spent the last ten years laying a reservation-wide water system. We are now in the process of developing a reservation- wide irrigation system using river water as the source, and are in the beginning stages of designing a reservation-wide sewer system that is projected to be needed in the next ten years. The Tribe has its own fisheries department that monitors in stream habitat and salmon populations in the Trinity River basin. This is a well respected program that also contracts with Bureau of Reclamation and United States Fish and Wildlife Service for collection of fisheries enhancement data.

We also have a housing authority; a human services department that provides alcohol and drug abuse counseling as well as family crisis counseling; and an education department that encompasses pre-school to a junior college branch campus. We plan to break ground on a new early childhood development facility in this next fiscal year.

By allowing us the flexibility to design our own programs, we have created this system for ourselves in just the last fourteen years. We've done this with planning and sound fiscal management. As we look forward to our future, our focus is on the development of our lands for future housing needs and the development of tribally-owned economic enterprises that will create an independent economic base and job opportunities for our people. We have completed two feasibility studies, one for a specialized sawmill that will produce specialty cutting for export markets and create 50 jobs locally. The other is a modular home plant that will not only create as many as 150 jobs and also provide affordable housing to our tribal members and others in our surrounding communities.

We are not sure what the DOI's trust reform proposal is. Hoopa is concerned that DOI is planning to take us all the way back to the system that existed before Self Governance: they're proposing to design the program for us; they're going to set the standards, the processes and procedures, and they're going to fund their program by taking money off the top of tribal program funding. We are concerned that the flexibility of Self Governance which has allowed tribes to create their own successes will be eliminated, that the processes that tribes have developed through relationships with their respective regional or agency offices over the past 10-15 years will be replaced with something that will not work.

DOI and OST are saying that they have to do this because of the Cobell case. This is clearly not correct by our reading of the case. The last Cobell order clearly defines the Trust as individual IIM accounts and limits its order to that. The order also requires the DOI to manage the Trust in compliance with tribal law and ordinances. Who has such ordinances? The answer is Self Governance tribes.

Let me say why I believe that the liability issue is overstated in regard to Self Governance tribes. First, the BIA or DOI have never been sued by a Self Governance Tribe for mismanagement of a compacted program. Such an admission of tribal mismanagement would immediately destroy their compact. Second, under Self Governance the BIA can take back any compacted program simply by declaring the program in "imminent jeopardy." Finally, audits and trust evaluations are conducted annually allowing a complete disclosure of tribal management of compacted programs. The BIA is sued by Direct Service tribes for their mismanagement. I've heard more than a few leaders of Direct Service tribes say they would never compact because they would lose the ability to sue for mismanagement.

Self Governance tribes are the ones that have a clear track record for management. The DOI really has no track record of developing successful programs for tribes. Self Governance tribes have been the true trust reformers. We have used the flexibility of Self Governance to address our people's needs, our own issues, concerns and problems. We have created successful programs that have become models for other tribes. We've taken over under-funded programs and created success with innovation and hard work. We have been able to match every dollar that we receive from the BIA compact with three dollars from other sources and with our own tribal funds. By assuming trust management, many of us are doing a cleanup of decades of BIA mismanagement.

Let me conclude by saying that Self Governance is the most successful program in the history of Federal Indian policy because tribes have made it a success. Seven tribes in California, along with three other tribes, have asked Congress to create a new pilot project that will preserve the working relationships and agreements that they have created with their respective regional offices since 1990. This proposal is in the Senate Interior Appropriations bill, Section 134. I ask that you support Section 134 and preserve the most successful models of tribal self governance in Indian Country today.

Solutions, problem solving and success for Indian Country won't be created within the beltway. Solutions must come from tribal communities that understand their own needs. The Self Governance program has allowed tribes to make decisions, find their own solutions and create their own successes. I ask that you take into consideration what has been accomplished under the Self Governance program as you consider DOI's proposals for trust reform. Thank you for your time.