Mandan, Hidatsa, & Arikara Nation

Three Affiliated Tribes • Fort Berthold Indian Reservation

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Testimony of Chairman Tex G. Hall
Mandan Hidatsa and Arikara Nation

Before the United States Senate Committee on Indian Affairs

Regarding Senate Bill 1146 To Amend the Equitable Compensation Act to Authorize
A New Health Facility for the Fort Berthold Indian Reservation
To Replace the One Destroyed in 1947 by the Garrison Dam

June 11, 2003

Dosha! (Hello) Mr. Chairman, members of the Committee. Thank you for this opportunity to testify on behalf of S. 1146, which would amend the Three Affiliated Tribe's Equitable Compensation Act by authorizing a new comprehensive rural health care facility to replace the hospital the United States destroyed when the Garrison Dam flooded our homeland.

It is ironic that today's hearing is being held on the 50th Anniversary of the dedication of the Garrison Dam by President Eisenhower, June 11, 1953. Yet it must be a tainted celebration, because, after 50 years, the United States still has not fully paid for it, even while earning billions from the power generated by the Dam, The Dam destroyed the 28 bed Elbowoods Hospital that served the Mandan, Hidatsa and Arikara tribal members. Fifty years ago, the United States, in order to persuade my people to vote in favor of the dam and to give up 156,000 acres of our best lands, made a solemn commitment to replace the hospital. Once it received that reluctantly given consent from our people, the United States proceeded to abandon its commitment, while reaping all of the monetary and other benefits from the Dam. This health care facility constitutes an equitable if not a legal lien on Dam. After 50 years, it is time to pay for the United States to pay its debt.

Over the past 50 years, while waiting for the United States to keep its promise, too many of my people have died because they got sick after 5:00pm or on weekends when the small and inadequate "replacement" clinic is closed; too many have died from traffic accidents because they did not reach an off-reservation health facility in time, too many of my people have died because the existing 8100 square foot clinic cannot provide anything close to adequate health care. Yet over the same 50 years, the United States has

earned hundreds of millions of dollars in revenue from the power generated by the Dam – such that it is in our mind a dam that has been paid for with the blood of my people. It is far past time for Congress to quickly enact S. 1146 and then quickly appropriate the $20 million called for in the bill so this dishonest and dishonorable chapter in our Government's history will come to an end.

We have been told that the budget is tight such that it will be difficult to obtain $20 million in appropriations. We have been told that IHS has a priority list that must be followed. But our request is not part of the priority list appropriations process and it would be wrong to treat it in the same category. While we desperately need a new facility, our claim on the United States involves something more compelling than just need. To boil it down to its essence:

- 50 years ago the United States destroyed our hospital;
- 50 years ago the United States promised to replace the facility it destroyed;
- 50 years later that promise has not been kept.
- For 50 years, my people have been dying because that promise has not been kept.
- After 50 years, it is time for the United States to keep its promise.

My grandfather, James Hall, was present during the signing of the contract between the United States and the Three Affiliated Tribes. He was the tribal vice-chairman at the time of the signing and went on to serve as tribal chairman from 1958 to 1960. He is the second to the left of George Gillette, the Tribal Chairman at the time who is the man weeping in the picture. The cessation of the Tribe's lands broke many hearts. Everyone within the Tribe knew that life would never be the same. When I was five, my grandfather told me about the flooding and explained to me that the government never replaced the Tribe's hospital or schools. He told me to pay attention to what he was telling me because some day I may have to ask the Government to replace the hospital it took from us. Today I am fulfilling my grandfather's prophecy and I am asking you to do the correct thing and fulfill the Government's moral and legal obligation to my Tribe.

I. The Legal and Moral Obligation of the United States To Provide Us With an Adequate Health Care Facility is Fully Documented and Undisputed

Over the past 50 years, numerous Congressional and Executive Branch reports and hearings have documented that the United States made an unequivocal commitment to replace the health facility that was destroyed, that my Tribe is legally entitled to such a facility, and that my people have been dying because of the United States' failure to keep this promise. As a result, there is no doubt that such an obligation exists, as the citations below demonstrate:

- The 1986 JTAC Report confirmed that the Army Corps of Engineers ("COE") had made this promise to the Tribe. "The [Elbowoods] hospital, like the rest of Elbowoods, was flooded after the dam was completed. The COE had promised to construct a new hospital…"

- The 1986 JTAC Report concluded that "The tribes are entitled to the replacement of infrastructure destroyed by the federal action;… The replacement of a primary care in-patient health facility and outpatient services **is deemed to be urgent and critical**."
- The JTAC Report found that the Tribe had the highest death rates for diabetes, alcoholism and cardiovascular disease in the Aberdeen Area and concluded that "the high death rates are due in part to the available health facilities".
- The JTAC Report recommended that, to meet the United States' obligation to the Tribe, it construct; "a primary care in-patient facility and out-patient services to meet the special health care needs of the Tribe. **This is an emergency need that should be pursued immediately."** The JTAC Report recommended a 25 bed, 35,155 square foot hospital at a cost of $4,688,000, plus annual staffing and maintenance costs of $5 million.
- The Senate Committee on Indian Affairs, in its 1991 Report accompanying the Equitable Compensation Act bill (Report 102-250), stated:

  > "The Committee notes that the JTAC found the tribes at Ft. Berthold are entitled to replacement of infrastructure lost by the creation of the Garrison Dam and Lake Sakakawea. The JTAC findings identified health care facilities, a bridge, school facilities, and adequate secondary and access roads as replacement infrastructure. Recognizing the limitations currently imposed by the Budget Enforcement Act, the Committee nevertheless believes that every effort should be made by the administration and the Congress to provide additional federal funding through annual appropriations for these infrastructure priorities, taking into account that the JTAC deemed several of **these infrastructure replacement needs to be urgent and critical more than five years ago.**" (p.6)

- At a hearing of this Committee on August 30, 2001 held on the Ft. Berthold Reservation, Senator Conrad stated: "This Tribe was also promised health facilities, specifically a hospital. That promise has not been kept….[W]e should insist as a matter of fairness and, more, as a matter of law [that this promise] be kept by the Federal Government."

Despite the urgent pleas to Congress by the JTAC Report in 1986 and by this Committee in 1991 to fund the construction of a new facility out of annual appropriations, no action was ever taken to do so. Because the Indian Health Service facilities' priority list has been closed to new applicants for over ten years, our Tribe has not and will not be able to obtain the promised facility through the normal Indian Health Service construction appropriations process for many years to come. As a result, the only way Congress can keep the United States' commitment is through enactment of S. 1146, followed by the immediate appropriations of the $20 million called for in that bill. (As discussed below, according to Indian Health Service, the bill will need to be amended to add $6.6 million for staffing and $2 million for maintenance and operation of the new facility.) While I recognize that the budget is tight, I have difficulty explaining to my people why the United States can find hundreds of millions of dollars to pour into the rebuilding of

foreign countries but can find no money to keep its 50year old commitment to rebuild our homeland.

II. Description of the Elbowoods Hospital That Was Destroyed By the Flooding and the Effect the Flooding Has Had On Our Reservation.

The Elbowoods Hospital was a 28 bed, 35,000 square foot facility with six basonettes. In the one year period between June 1, 1947 and May 31, 1948, 460 patients were admitted to this hospital and 3,921 were treated as outpatients. Two apartment buildings provided living quarters for the doctors and nurses that served the hospital. The Reservation had eight Reservation communities and the furthest Reservation community, Sanish, was approximately 60 miles from the Elbowoods Hospital.

The United States never replaced the Elbowoods Hospital. The Tribe has gone without a comparable hospital for the past 50 years. As set out at length in this testimony, a combination of the absence of an adequate facility, the stress caused by the dislocation, the dispersal of our population to remote and barren uplands, and the change in our life style, all caused by the flooding of the best part of our reservation, has caused the health of the Tribe's members to suffered tremendously since.

The Elbowoods Hospital was located within the 156,000 acres of the Reservation's prime river bottomland that was flooded in 1953 – what our people called the "heart of our reservation". Three hundred and twenty-five families were forced to evacuate these lands. Garrison Dam flooded one quarter of the Reservation's land base and 94% of this land was prime agricultural land. When the Garrison Dam was completed, the Reservation was fragmented and the Reservation communities became distant from one another as a result of the newly formed Lake Sakakawea. The farthest Tribal Community from New Town is Twin Buttes which is 120 miles away. The distance of the other Reservation Communities from New Town are as follows: Mandaree -30 miles; Parshall – 20 miles; and Whiteshield – 60 miles.

The dispersal of our people has increased traffic accidents because tribal members have to drive long distances on bad roads because the United States failed to keep its promise to build new roads to these outlying communities. At the same time, the increased distances from New Town have made it more difficult for emergency services to reach injured persons. As discussed below, these factors have led to too many unnecessary deaths of people lying by the side of the road waiting for an ambulance to arrive.

The destruction of our close-knit social and cultural society by the dispersal of our population to the remote communities has contributed to alcoholism, depression, suicide, and violence. The flooding also changed our diet and work habits. When most of the population lived in the rich bottomlands, virtually every family had a farm that included a garden and livestock, which enabled most of the families to be economically self-sufficient. When we were forced out to the barren uplands, where the soil cannot be farmed, families became dependent on commodity foods, which are high in fat and

starch, contributing to diabetes. Families also had no way to support themselves, contributing to alcoholism, suicides, and family violence.

The destruction of the Elbowoods Hospital also left us without any health facility at all for the first 15 years, and then with a tiny and inadequate clinic for the past 35 years. When Elbowoods had to shut down in 1953 because of the flooding, the Corps of Engineers promised the Tribe that it would construct a new hospital. However, our trustee, the BIA, in its infinite wisdom, recommended that our Tribal members utilize hospital care in cities and towns adjacent to our Reservation because it thought it would be easier to travel to other cities and towns than to come to a centralized hospital on our Reservation. (See page 20 of the JTAC Report.) Many Tribal members opposed the BIA's recommendation at the time, but we lacked the power to challenge the BIA's position, which reflected the Federal government's termination policy at that time. As a result, from 1953 when the Elbowoods Hospital was destroyed, until 1968, when our present small clinic was built, there was no Federal health care available on our reservations. Tribal members had to go to private non-Indian health facilities. Because of the cultural and transportation barriers to the use of these non-Indian facilities, many tribal members were unable to obtain adequate health care and there were no preventative programs being provided. It was during this 15-year period that the health status of our people began its precipitous decline.

(In contrast, the Cheyenne River Sioux Tribe, which was also promised a new facility when its reservation was flooded in 1949, but was not subject to BIA interference, had such a facility built for it by the Corps of Army Engineers out of COE's appropriations. Since then it was replaced by a newer facility and then upgraded again.)

In sum, the flooding of 156,000 acres of our best land was a catastrophe for our people's health in so many different ways. But the ultimate indignity and unconscionable action by the Federal Government was its failure to at least keep its promise to replace the health facility it destroyed in order to enrich itself from the Dam and to benefit all of the downstream populations.

III. The Gross Inadequacies of the Existing 8-5, Five Days a Week Clinic

In 1968, fifteen years after Elbowoods was destroyed, the Government finally built a health care facility on our reservation. But instead of giving us a facility that was even remotely comparable to the Elbowoods hospital, it gave us a tiny, understaffed, under-equipped 8am-5pm clinic that was inadequate when it was built and that has so deteriorated over 35 years that today it is also a safety and medical disaster area. It is only 8100 square feet, compared to Elbowoods which was over 35,000 square feet. A report by Dr. Robert Marsland, Retired Assistant Surgeon General, USPHS/IHS documented the shocking and unacceptable deficiencies in our present health clinic and found that these deficiencies were at least partially responsible for this unacceptable health epidemic on our reservation.

Two sentences in his report starkly summarize his findings: **"The current IHS facility and service is inadequate, poorly staffed in numbers, poorly funded and unable to provide more than minimal community and primary health care. While the facility is staffed with competent and dedicated employees and officers, the lack of an adequate facility and budget compromises their ability to provide quality care."** A grossly deficient facility that is less than one quarter the size of the facility that was destroyed is not the kind of health facility the Mandan Hidatsa and Arikara people ever imagined they would end up with when they gave up 155,000 acres of land in return for a solemn commitment from the United States to replace the Elbowoods Hospital. Given the diabetes, cancer and other epidemics that are killing our people, the present facility's ability to address these problems has been likened to "trying to put out a forest fire with a garden hose".

The clinic is staffed by only 3 doctors, 2 nurse practitioners, and 3 nurses. In addition to working at the clinic, this small team spends one or two days a week at the mini-clinics the Tribe has built with its own funds out in the remote reservation communities. (Twin Butte is open one day a week and Mandaree and White Shields are open two days a week. We are unable to open the new facility the Tribe built at Parshall because IHS says it does not have the money for staff or operations.) As highlighted by Dr. Marsland's Report, this dedicated but understaffed team is trying to provide health care in a facility that is deficient in more ways than one can count. Quoting directly from that Report:

> "According to the IHS Level of Need Funding Report, Ft. Berthold Service Unit has a level of Need Funding of 45%, or less half the amount needed to provide an adequate level of health care." Ft. Berthold's level is even lower than the average for the severely underfunded Aberdeen Area, which averages a level of Need Funding of 54%.
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> "The existing Minni-Tohe Health Center located in New Town, constructed in 1968 and comprising 8,100 square feet, is old, too small and poorly designed to meet the health service needs of the service population."
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> "Rooms are small and without organization for efficient patient flow. There are too few examination rooms, the six rooms available are small, minimally equipped and some lack privacy…. All parts of the facility are chopped up and so congested that there are potential safety, privacy and HIPPA problems throughout. Additions to the original building and changes to accommodate expanded services have resulted in very poor ventilation, with heating and cooling problems." (Dr. Marsland also points out that the lack of ventilation forces the physicians to leave the exam room doors open, so the patients have no privacy, putting the facility in violation of the HIPPA federal privacy requirements.)
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> "Work space for all departments and services, except for Pharmacy, which is minimally acceptable, are totally inadequate and fraught with safety, overcrowding, and numerous maintenance problems. The laboratory space is extremely small, crowded with equipment, poorly ventilated, with no room for

> desk space for lab and radiology personnel, yet the lab scored 100% on the accreditation survey. Credit must go to the dedicated staff to obtain such high results from such a difficult and demoralizing workspace."
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> "Building settling has produced cracks and separations in several areas. The floor under the Medical Records space was not properly reinforced to sustain weight of medical record storage units and files so the floor is sagging."
>
> "N-19, the building that was to be used as a Wellness Center [a building adjacent to the clinic] is so badly affected by black mold that it must be removed. Lead and asbestos were discovered in planning for removal of the building. Black mold has also been discovered in the quarters' units necessitating extensive repair and renovation of these buildings."

IHS is planning to spend over $1 million to renovate the existing facilities and quarters. But even when finished with that expenditure, the facilities will still require over $1 million to correct the deficiencies needed to bring the facilities into compliance with JCHAO, OSHA, and State safety standards. Funds to do this have not yet been identified. But even if IHS spent the full $2 million, we would still have a clinic that is too small and open only from 8 to 5, so our people would continue to die because of the United State's failure to keep its fifty year old promise. Further, there is no room for expansion, because the site of the existing health care facility is land-locked by the new bridge. As a result, it has no room to grow even if funds were available for an addition to the existing clinic.

In an effort to compensate for the inadequacies of the facility, the Tribe has contracted the employment of medical personnel and each year contributes $700,000 of its own funds to supplement the professionals' salaries, in order to provide them financial incentives to stay longer than two years and to work hard. This is apparently succeeding since Dr. Marsland repeatedly noted how the "competent and dedicated employees" try to overcome the deficiencies in their facilities.

IV. Our Health Problems, Intensified by the Flooding and the Inadequate Clinic, Have Created A Health Crisis of Epidemic Proportions

Our health problems are at epidemic proportions, especially in areas such as accidental injuries, cancer, heart disease, and diabetes related health problems. In addition to destroying our hospital, the flooding of our reservation has added to our health problems. Numerous studies have concluded that stress and dislocations of the kind that my people suffered as a result of the flooding cause serious health problems. We have seen our health problems on our reservation grow geometrically since 1953. When this increase is placed on top of the health problems suffered generally by Indian people throughout the country, and is coupled with our inadequate 8 to 5 clinic, it has produced a health epidemic on our reservation, while we have been denied the weapons we were promised and we need to effectively combat it.

Our diabetes rate is more than 14 times the national average. 576 tribal members, approximately 10% of our on-reservation population, are known diabetics. Many others likely have yet to be diagnosed. Of those diagnosed, 20% are under 18 years of age. Our children are now being diagnosed at an alarming rate with juvenile diabetes. When we tested our Head-Start children, 20% were found to be predisposed to diabetes. This means they may suffer with diabetes their entire lives. Our dialysis center presently serves 37 patients diagnosed with "end-stage renal disease". As the name implies, these are people whose diabetes has affected their kidney functions so severely that their blood must be cleaned ("dialysized") not through their kidneys, but through special machines at our dialysis center. Of the 576 members suffering from diabetes, over 300 are between 40 and 60 years of age. Many of them will be needing dialysis and other intensive treatment in the coming years, making the need for an adequate diabetes care center even more pressing. In addition, this center needs to be housed in an adequate health care facility that can serve the needs of patients who may suffer complications while receiving dialysis services.

I recently declared a "War on Diabetes" that will involve a variety of innovative preventative and medical initiatives, including an Internet screening program in conjunction with Georgetown University that has been funded through the Defense Appropriations Act with much appreciated assistance from Senators Conrad and Inouye. However, our existing facility lacks the space to house any preventive health care activities, much less the efforts needed to carry out and win this war.

Our cancer rates are up to seven times the national average depending on the kind of cancer. Many of these are forms of cancer that need screening to be detected early enough for treatment. The clinic lacks the equipment and the space for equipment to conduct mammograms, putting additional pressure on the inadequate CHS dollars. My mother died of stomach cancer, not diagnosed early enough, because there had been no screening program instituted for the disease at our local IHS facility.

Heart disease, the third leading cause of mortality, is four times the national average. The Tribe's Casino is located just across the highway from the Center. We have had seven people die there from heart attacks in the past 18 months because they were unfortunate enough to have suffered the heart attack after 5:00pm. One of the persons that died was a mother of a fellow councilman who watched helplessly as his mother died in his arms. His mother and the others that suffered heart attacks may have been saved if we would have had a twenty-four hour healthcare facility on our Reservation.

We have just begun construction of the new Four Bears Bridge and, in a year, will begin construction of a new refinery. Together they will involve hundreds of workers involved in dangerous construction tasks. The construction work on these projects will not stop at 5:00pm or be limited to weekdays. Our present clinic and the hours it is open are totally inadequate to handle the existing workload, much less the increased workload these construction projects will contribute.

V. Absence of a 24 hour Facility Combined with Inadequate Ambulance Services are Causing Too Many Unnecessary Deaths

As indicated throughout this testimony, one of our most serious concerns is that the existing clinic is only open from 8:00am-5:00pm and only on weekdays. A tribal member who gets sick or injured in the evening or on weekends or holidays must be transported to an off-reservation hospital. The three off-reservation hospitals are all at least 85 miles from New Town and further from the outlying communities. Minot is 85 miles, Williston is 90 miles and Bismarck is 160 miles. (The nearby off-reservation facilities in Stanly and Warford City are only "critical access facilities", capable of just performing triage and then transferring the patient to these other distant hospitals.) There is no Medivac or other air transport available. The IHS ambulance is used only to transport patients from the clinic to the off-reservation hospitals. It is not equipped or staffed for emergency medical services.

Even when the clinic is open, it is too small to handle serious automobile and other injuries. We have a high accident rate on our reservation, largely attributable to the flooding because our community went from a compact one in which most people lived in a 60-mile stretch along the Missouri River, to one that is spread out over a wide and remote upland territory. People must travel dangerous roads, many of which are gravel or dirt, because the COE failed to build the roads it promised to connect the new upland communities. All of these factors increase the critical importance of adequate EMT and ambulance services. However, Dr. Marsland concluded that the ambulance service for doing so is totally inadequate.

The combination of the remote and dangerous roads, the long distance from health facilities, the absence of basic ambulance services, and an 8:0am-5:00pm clinic, have combined to cause far too many accident victims to become unnecessary fatalities because medical treatment was not provided in a timely manner. All of these problems are attributed to the flooding and the Government's failure to keep its promise to provide a new health facility.

Dr. Marsland's report effectively summarizes the ambulance situation:

> "The Ft. Berthold Reservation and Minni-Tohe health Center are medically isolated. The nearest secondary/tertiary health facility is located in Minot - 85-100 miles away from various reservation communities. Only one of the four ambulance or Emergency Medical Services that serve the different parts of the Reservation are certified for ACLS stabilization and transport. Currently there is no way to effectively use that "golden hour" of time from the moment a life threatening event occurs to stabilize and transport a patient from the scene of the event, whether home, highway or health center, and transport to a certified facility and provide the advanced cardiac and life support necessary to prevent death or catastrophic results."

To try to reduce the number of deaths, the Tribe spends approximately $113,000 a year to pay for ambulance services, which are provided by three off-reservation communities and the city of New Town. But because of the distances, difficulty in finding the victim(s) in the remote countryside, and boundary disputes among these four ambulance services, they often take too long to arrive and three out of four of them lack the sophisticated equipment needed to utilize that "golden hour" Dr. Marsland referred to. Also, there are areas of our reservation that have no service at all because they are outside of the "territory" of the various ambulance services. The entire west side of our reservation does not even have 911 service, as can be seen from the sign on the clinic advising people what to do for service when the clinic is closed. As a result of all of these factors, most of which are directly attributable to the Dam and the Government's failure to keep its commitment, far too many of my people have died because they picked the "wrong" time and place to get sick or injured.

VI. The Unfulfilled Promise has a Devastating Effect on Our Contract Health Services Program, On Our People's Credit and On Off-Reservation Providers

The inadequate existing facility also has a devastating effect on our contract care (CHS) program. Because the facility can handle such a limited range of medical procedures and services, an inordinate amount of medical services has to be referred to off-reservation providers. Dr. Marsland found that the CHS funds "…are insufficient to meet even Priority I needs for protection of life and limb throughout a 12 month period. The service unit usually depletes its CHS funds sometime from May-July." Many services that others in this country take for granted are never funded because of the inadequate CHS budget at Ft. Berthold.

The extraordinary dependency on the CHS dollars because of the inadequate facility has also unfairly ruined the credit rating of hundreds of tribal families. This in turn has undermined the Tribe's efforts to promote mortgage-financed housing because these families are treated as uncredit-worthy by the mortgage financers. Yet the fault lies with the Indian Health Service. Even though the Service Unit knows it will run out of CHS funds before the end of the year (and it is prohibited from paying bills incurred in one fiscal year with funds appropriated in the next year) the Indian Health Service has instructed the Service Unit to never deny any tribal member CHS services on the grounds that there is no money. So if a tribal member needs a Priority I procedure, the Service Unit approves it. But, if, when the bill for that procedure is received by IHS, the CHS funds for that year have been exhausted, IHS, in a maneuver that is immoral and probably illegal, simply declares after the fact, that the procedure is now not a Priority I procedure, such that IHS has no legal obligation to pay the bill. Responsibility for the bill now falls, after the fact, on the tribal member. Thus a tribal member who walks into the CHS provider having been told that IHS would cover the costs of the procedure, can learn weeks later that he is personally and legally responsible for thousands of dollars in medical bills. If the tribal member cannot afford to pay this unanticipated bill (which is the usual case), his credit rating is destroyed and he is ineligible for mortgaged financed housing, car loans, etc., through no fault of his own. One family facing a $30,000

medical bill because of this IHS practice, was forced to declare bankruptcy to keep the CHS provider from seizing all of the family's assets.

The absence of a 24-hour facility and the resulting reliance on CHS dollars, also creates financial problems for the off-reservation health facilities. In the situations described above, most tribal members cannot afford to pay these medical bills even if they were willing to let IHS off the hook. As a result, the off-reservation facilities are never fully compensated for the CHS care they provided. This raises the cost of health care to the off-reservation population.

VII. A Description of the New Facility

The $20 million authorized by S. 1146 would pay for the construction of a 66,000 square foot facility, located on 66 acres of land donated by the Tribe, set overlooking Lake Sakakawea. This is a bare bones facility. Based on IHS data, a facility for a user population the size of Ft. Berthold (a population of 5826 in 2002 and expected to grow to 7436 in 2010)) should be 107,000 square foot, with $3.5 million for design, $9.7 million for 140 new staff, $13 million for O&M, and $21 million for 75 new housing quarters for the new staff. When the Tribe submitted the $20 million cost to Congress, it was just for construction and was not intended to include these other costs, which we have been told must be authorized, and then specifically appropriated in the first year of operation. If that is done, IHS will include them in its base budget in future years. If that is not done, there will not be funding to staff or maintain the new facility. We therefore request that S.1146 be amended to provide for the additional staff ($6.6 million), O&M ($2 million), and design ($2 million) that IHS would include in any 66,000 square foot facility.

The $20 million also does not include funds for new quarters for the additional staff needed for the new facility. Yet, some of the existing quarters were converted to use for medical purposes and others cannot be occupied because of black mold. Unless new quarters are provided, it will be virtually impossible for the Tribe to recruit the additional providers that will be needed to staff the new facility. The Tribe requests an opportunity to visit with the Committee at some time in the future to discuss this need for staff housing.

We have been planning our new facility for almost 15 years, ever since the JTAC Report acknowledged our right to such a facility. While we were promised a new hospital to replace Elbowoods, the Tribe has agreed to compromise on a 24-hour outpatient facility. We have had numerous community meetings and have consulted other tribes and various health experts. The result is a facility plan that was designed specifically to address the health problems that are killing our people, based on the successful model of a comprehensive rural health care facility.

The facility will provide 24 hour, 7 day a week outpatient and emergency room services. It will have an expanded kidney dialysis unit, since diabetes on the Reservation is 14 times the national average and is the leading cause of death. It will have a cancer-

screening unit because our Reservation has a cancer rate seven times the national average and cancer is the second leading cause of death. It will have a telemetry unit for testing persons with heart problems, since heart disease is the third leading cause of death. It will also have an Internet-based health information technology resource center, to be developed with the cooperation of the Georgetown University Medical Center, that will enable the medical staff to monitor diabetes patients in their homes and will provide the staff with information on the best practices available on diabetes and cancer treatment, particularly, in regard to diet and lifestyle of the patients.

It will provide 10 "swing beds" for patients who need skilled nursing care but do not belong in a hospital, such as for rehabilitation and alcoholism. These beds, the numbers for which were based on analysis of existing utilization, will produce significant savings in IHS Contract Health Services dollars that are now spent putting patients in expensive hospital beds, not because they need to be in a hospital but because there are no alternatives. These beds will also enable patients to recover at a facility that is close to home, rather than in an off-reservation hospital that may require a 2 to 4 hour drive, one way, for family members seeking to visit.

Finally, the budget includes funding for fully equipped ambulances that will serve the remote communities. The Tribe will provide the facilities to house the ambulances. The staffing includes EMS personnel in each segment. The budget also includes funds for a helipad. All of these are designed to reduce the unnecessary deaths caused by the dispersed communities caused by the dam.

Conclusion

The United States has a legal and moral obligation to enact S. 1146 and to provide the appropriations called for in the bill. The Tribe's request does not interfere with or override the IHS health facility priority list or the appropriations process for that list. The Tribe is not simply seeking a new facility because its existing one is deficient. It is owed that facility because the United States destroyed its old hospital and promised to replace it. As Senator Conrad stated at the August 30, 2001, hearing the Tribe is morally and legally entitled to this facility. To make this distinction clear, the Tribe requests that Congress consider revising S 1146 so that it creates the "Equitable Compensation Health Care Facility Settlement Fund" in the Office of Special Trustee, and that it provide that the $20 million for construction of the new facility, when appropriated, be placed in this fund. The Tribe would then use the funds to build the new facility. This takes the appropriations out of the priority list category and makes it clear to all that the appropriations are being provided in settlement of an obligation of the United States. There are precedents for this. For example, the Northern Cheyenne Water Settlement Act created a similar Fund for the construction of a dam, with the dollars appropriated, pursuant to settlement, directly into that Fund.

While appropriations are always difficult, the Garrison Dam has created enormous economic opportunities for those downstream who will forever be spared devastating floods, produces generous amounts of cheap electricity, provides recreational

opportunities that now benefit all of the upper Great Plains, and is an enormous reservoir of water to meet the needs of North Dakota's residents, farms, and industries. In particular, the Dam has enabled WAPA to earn significant profits, which it pays over into the United States Treasury. While reaping these profits, the United States has not paid the full costs of generating that power since it has failed to provide us with the replacement health facility that is one of those costs. We view those profits as being earned on the backs of our people. It is time for the United States to fully pay the cost of the facility it has been benefiting from for 50 years.

Congress has recognized the connection between a Federal Power Authority's profits and the Government's obligations to meet its commitments to Indian tribes. The Colville Tribe had a claim against the United States and the Bonneville Power Authority for undercompensating the Tribe for the land taken for the construction of Grand Coulee Dam. The Tribe and BPA worked out a settlement that is actually being paid for by BPA out of its revenues, thereby eliminating the need to obtain an appropriation from Congress. While that model may not be an acceptable approach here, it makes the point that there is a direct relationship between the revenues earned by the Power Authorities and the obligations and commitments made by the United States in order to obtain the land needed to earn those revenues.

In conclusion, on this the 50th anniversary of the dedication of the Garrison Dam this Congress, led by this Committee, must move forward aggressively to enact S 1146 and then toappropriate the funds – as a matter of fairness, as a matter of conscience, and as a proof that a great nation keeps its promises. Thank you for this opportunity to testify.