

TESTIMONY OF
CHAIRMAN WENDSLER NOSIE, SR.
SAN CARLOS APACHE TRIBE

FOR THE HEARING ON
REAUTHORIZATION OF NAHASDA

BEFORE THE SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY OF THE
FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

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Introduction

Thank you for holding this important hearing to discuss reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and ways to improve it so that it better meets the needs of Indian people. My name is Wendsler Nosie, Sr. As the Chairman of the San Carlos Apache Tribe, I am honored to testify before you today to provide the views of the San Carlos Housing Authority. With me today are Tribal Council Member Terry Rambler, who is Chairman of the San Carlos Housing Board of Directors for the San Carlos Housing Authority, Mr. Ronald Boni, Executive Director of the San Carlos Housing Authority, and Diana Lopez Jones, the Housing Authority's counsel.

My Tribe has testified before this Committee on its housing needs at the field hearings at Camp Verde in 2006 and at Tuba City in 2004. We thank you for your hard work and commitment to Indian Country in working with us as we seek ways to relieve the overwhelming housing shortage in our tribal communities. We have been making strides in tackling the severe housing shortage on the San Carlos Apache Reservation and in providing increased opportunities for our tribal members to live in affordable housing. But there is much that is left to be done. We are hopeful that the successful reauthorization of NAHASDA will provide us with increased flexibility, greater self-determination, less administrative burden, and new programs so that we can provide more and better housing options for our people.

Background on the San Carlos Apache Indian Reservation

To better understand the housing needs on the San Carlos Apache Indian Reservation as well as the United States' trust responsibility to the San Carlos Apache Tribe, it is helpful to know about the Reservation itself as well as the

history of the Apache people. The aboriginal territory of the Apache Nation included the western part of Texas, the current states of Arizona and New Mexico, and part of the country of Mexico. The Apache Treaty of Santa Fe in 1852 was executed by Mangus Colorado and others on behalf of the Apaches. Pursuant to the Treaty, lands within the aboriginal territories of the Apache Nation were to be set aside for a permanent Tribal homeland and the United States promised to provide for the “humane” needs of the Apache people. In exchange, the Apache Nation agreed to the end of hostilities between the two nations.

The San Carlos Apache Indian Reservation was established by an executive order of President Grant on November 9, 1871. Through the concentration policies of the United States, various bands of Apaches were forcibly removed to the San Carlos Apache Indian Reservation. These bands included the Coyoters, Mimbrenos, Mongollon, Aravaipa, Yavapai, San Carlos, Chiricahua, Warm Springs, and Tonto Apaches. Famous Apache leaders who were located at San Carlos included Geronimo, Cochise, Loco, Eskiminzin, Nachie, Chatto, and others. Throughout history, the United States in 1873, 1874, 1876, 1877, 1893, and 1902 diminished the size of the Reservation several times by executive order due to the discovery of silver, copper, coal, water, and other minerals and natural resources.

The Housing Situation on the San Carlos Apache Reservation

My Reservation suffers from a severe housing shortage. I have attached pictures to this testimony of some of the sub-standard housing conditions that continue to plague my community and we have also blown up some of these pictures for you today. As you can see from the pictures, the San Carlos Apache Tribe is still struggling to meet a very basic standard of living. My hope is that the reauthorization of NAHASDA and your efforts will provide us with much needed resources and tools to address this grave problem.

The housing situation on my Reservation and in the rest of Indian Country is unacceptable in this great country of ours. Let me be clear that the San Carlos Apache Tribe supports our troops in Iraq, Afghanistan, and other parts of the world. The Apaches have many decorated war veterans that have served with distinction in the United States military throughout this country’s history. However, I wonder about some of the priorities of the United States when my community needs to be rebuilt, my people need homes, and my people need infrastructure, including sewage and water systems. When I hear about the billions and billions of dollars the United States is spending to rebuild Iraq, to build homes for the Iraqi people, and to build infrastructure in Iraq, such as sewage and water systems, I wonder why the United States will do these things for the Iraqi people but not for its own citizens in the United States. Many Apaches do not have homes, do not have plumbing, and do not have drinkable

water. It is not right that the United States has not addressed our needs and instead addresses the needs of people in other parts of the world.

The San Carlos Apache Reservation has a land base of 1.8 million acres, but only a small percentage of the Reservation can be used for residential building purposes. The remainder of the Reservation is comprised of some of the most rugged terrain in the Southwest, including deep stands of timber, jagged outcroppings, and rocky canyons. As a result, the Reservation lacks infrastructure in all but two general housing areas. On the western edge of the Reservation, the Tribe has 3 districts: 7-Mile Wash, Gilson Wash, and Peridot. Located on the eastern edge of the Reservation is the District of Bylas. All together, these 4 districts are home to 13,456 tribal members. Approximately 84% of our tribal members live on the Reservation. Although we have worked hard to develop our Reservation economy, 76% of our population is unemployed, and the poverty rate on the Reservation is 77%. These statistics, far above the national and state averages, demonstrate the pressing need for adequate, affordable housing on the Reservation.

There are 3,325 families on the Reservation at this time. Of that number, there are 3,147 low-income, 806 near-elderly, and 643 elderly households. 40% of these families live in sub-standard housing conditions and 41% live in overcrowded conditions. Only 2,061 home ownership units are available on the Reservation. Some tribal members live in rental units or mobile homes. According to the estimates of the San Carlos Housing Authority, the Tribe would need to build 145 homes per year for the next 10 years to meet the housing needs of the current population alone. However, due to financial limitations, the San Carlos Housing Authority can only build 40 homes over the next two years. Further, the population of the Tribe continues to increase and more than 30% of the population is now under the age of 18 years. New young families are in desperate need of housing, yet many of them lack the ability to support themselves with anything other than a high school diploma. On the other side of the coin, it is important that the Tribe offer some hope of jobs and home ownership to young Apache professionals who desire to live and work on the Reservation.

Approximately 30% of the homes on the Reservation were built 3 decades ago. Their average value is less than \$50,000.00. Approximately 21% of them have no telephone service. Almost 10% lack complete plumbing or kitchen facilities. Contrast that with the statistics for the border towns of Globe and Miami where approximately 30% of these homes were built in the past 5-10 years. A full 1/3 of the homes are worth between \$100,000.00 – \$150,000.00. Less than 4% lack telephone service. Less than 2% lack complete plumbing or kitchen facilities.

The physical distance between our communities is just a few short miles; however, the gap in home ownership between the Reservation and our

surrounding communities is disproportionately large. We are decades behind the surrounding areas in our ability to provide decent, safe, and sanitary home ownership opportunities for our tribal members.

Our dire housing situation is due to such factors as the lack of economic development, lack of educational and vocational opportunities, the challenge of attracting potential investors to the Reservation, the ongoing need for immediate access to capital, the need for comprehensive planning efforts and a land use plan, and its population growth. As you know, housing, employment, education, and infrastructure are inter-related. Higher rates of employment and educational attainment correspond to lower rates of poverty, which are then linked to more sophisticated financial consumers. My Reservation could greatly benefit from community-based programs designed to improve the employment and educational outlook on the Reservation and strengthen the tribal economy.

Recommendations on NAHASDA Reauthorization Legislation

Since its enactment in 1996, NAHASDA and its block grant and loan guarantee programs have provided us with critical support in addressing the overwhelming housing needs in Indian Country. Given its importance in our everyday lives, we urge the Congress to enact NAHASDA reauthorization legislation as quickly as possible. Further, we urge the Congress to provide increased funding for NAHASDA. As you know, NAHASDA is severely underfunded, thereby limiting its positive effectiveness. As pointed out by Marty Shuravloff, the Chairman of the National American Indian Housing Council (“NAIHC”), the impact of federal funding for the Native American Block Grant has been steadily eroded by inflation. More could be accomplished if there was more funding because the simple fact remains that it takes money to build and rehabilitate houses and the backlog for homes in Indian Country is astounding.

Below are our views on ways to improve NAHASDA to ensure that tribes have the tools they need to provide affordable, safe, quality housing for low-income tribal members in a manner that honors tribal self-determination and the unique government-to-government relationship between the federal government and Indian tribes. Further, we support the provisions contained in the Committee’s discussion draft NAHASDA bill dated June 1, 2007, especially the new Self-Determined Model Activities Program. We provide more detailed comments on the discussion draft below.

Addressing the Need for Dedicated Funding to Maintain Rental Homes

The Tribe is doing all that it can to stretch every dollar to provide housing for its tribal members. The San Carlos Housing Authority is building new homes for home ownership (approximately 20 a year based upon its funding under NAHASDA) and maintains various rental units. Given the Reservation’s depressed economy, most of our tribal members have great difficulties meeting

the income requirements for home ownership, which is currently \$12,500 per year. The income standard should be \$22,000 for the Housing Authority to fully recoup its costs and to allow the tribal member to be a successful home owner, but we cannot set the income standard at this level of \$22,000 because most of our tribal members would not qualify. Also, the Housing Authority subsidizes most of the rental units for tribal members given their limited incomes or lack of incomes.

As a matter of financial survival, the Housing Authority has been focusing on building new homes for home ownership because, at some point, the owners assume responsibility for the homes. In contrast, with rental homes, the Housing Authority is responsible for their operations and maintenance. The Housing Authority maintains about 421 rental units and last built new rental units (8 homes) in FY 2004. The Housing Authority has not built new rental units over the past 3 years because it can not afford the operations and maintenance costs given that most of these homes are subsidized due to the poverty levels on the Reservation. We request that the reauthorization of NAHASDA help us and other tribes address this problem.

The discussion draft bill addresses this problem in part. In the draft bill, at page 4, lines 6-10, it amends section 202 of NAHASDA (25 U.S.C. § 4132(4)) to include "operation and maintenance of units developed with amounts provided under this Act" as an "eligible affordable housing activity." Accordingly, it makes it clear that NAHASDA funds can be used by housing authorities and tribes to operate and maintain rental units. This provision provides us with flexibility in using block grant funds to support the operations and maintenance of NAHASDA-built homes. This provision is logical and fiscally appropriate to use NAHASDA funds to maintain homes originally built with NAHASDA funds. However, given the limited amounts of funding under NAHASDA, it is difficult to both build houses and maintain rental units.

We recommend, in addition to language found at lines 6-10 on page 4, the inclusion of a rental subsidy mechanism that is similar to the rental subsidy mechanism found in the 1937 Housing Act. We have found the rental subsidy provision in the 1937 Housing Act to be vital in allowing us to maintain and operate our rental homes built under the 1937 Housing Act. We also recommend that the subsidy mechanism be needs-based and factor in certain information in its allocation formula, such as the age of the units and the number of units in inventory. Also, the subsidy mechanism should be adjusted on a yearly basis to account for the rising cost of inflation. In this way, housing authorities can receive funding which is commensurate with their true needs.

With a rental subsidy mechanism in NAHASDA, we could provide additional rental housing, which would greatly alleviate the housing crunch on the Reservation. We suggest the following legislative language for inclusion in the

reauthorization of NAHASDA by adding the following new subsection to the end of 25 U.S.C. § 4152(d)(2) :

(3) Formula for Operations and Maintenance

The Secretary shall develop a formula for determining the amount of assistance for operations and maintenance of units developed with amounts provided under this Act. The formula shall be actualized on an annual basis to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from inflation, aging inventory and substantial general increases in the cost of doing business such as higher utility rates or other similar costs.

The formula may take into account such factors as –

(A) the number of dwelling units owned, assisted or operated by the Indian Housing Authority, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the Indian Housing Authority to carry out operations and maintenance, rehabilitation and modernization activities, replacement housing, and reconstruction, construction and demolition activities related to dwelling units owned, assisted or operated by the Indian Housing Authority, including backlog and projected future needs of the Indian Housing Authority;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the Indian Housing Authority to carry out activities that provide a safe and secure environment in dwelling units owned, assisted or operated by the Indian Housing Authority;

(E) any record by the Indian Housing Authority of exemplary performance in the operation of its programs, as indicated by the system of performance indicators established pursuant to 42 USCA § 1437d(j); and

(F) any other factors that the Secretary deems to be appropriate.

Also, we recommend that the subsidy language contained in the 1937 Housing Act be amended so that the amount of the subsidy is increased to keep pace with today's rising costs. We propose the inclusion of the following

language to amend the 1937 Housing Act as part of the reauthorization of NAHASDA by inserting at 42 U.S.C. § 1437g(c)(1), immediately after the end of the first sentence, the following language:

“The Secretary shall determine the amount of the allocation for each eligible agency pursuant to the formulas described in subsections (d)(2) and (e)(2) of this section. Such formulas shall be actualized on an annual basis to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from inflation, aging inventory and substantial general increases in the cost of doing business such as higher utility rates or other similar costs. The amount of the allocation shall be for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2) of this section --

Increasing the Dollar Amounts in Determining Adjusted Income

We recommend that the dollar amounts contained in the definition of “adjusted income” in section 4(1)(A), (B) and (F) of NAHASDA (25 U.S.C. §§ 4103(1)(A), (B) and (F)) be increased to account for rising costs and inflation. The exemption set forth in the definition for youth, students and persons with disabilities is currently \$480.00, for elderly and disabled families is currently \$400.00, and for mileage/travel costs is currently \$25 per family per week. These items have never been adjusted for the rising cost of living. As a result, the families at San Carlos are paying more for housing than the statute originally anticipated.

We recommend that these amounts be adjusted for inflation and be subject to an increase every year by a percentage based on the Cost of Living index. For instance, a \$25.00 travel expense per family per week is wholly inadequate when the current cost of gasoline is over \$3.00 per gallon. Moreover, the current rate fails to account for the long travel distances that are the norm for families who live on reservations in rural areas. Increasing the dollar amount of these exemptions will ultimately bring down the number of tenants with delinquent balances because the exemptions will make the units more affordable by lowering the cost of the monthly house or lease payment.

Flexibility under the Self-Determined Model Activities Program

We strongly support the proposed Self-Determined Model Activities Program contained in the discussion draft because it provides for greater self-determination for tribes and housing authorities and provides flexibility in the use of block grant funds. However, we recommend clarification for the language at lines 24-25 on page 8 and at lines 1-2 on page 9 to assist housing authorities and tribes in determining the nature and scope of HUD’s expectations under these provisions. The language in this section is cumbersome and open to

interpretation when compared to the language on the same topic found at page 10, lines 9-17. We suggest that the following language be used instead:

“ ... for model activities involving construction or rehabilitation of buildings that will: (a) support affordable housing, whether or not assisted under this Act, and (b) lower housing costs for the low income community served by the tribe.”

Reducing Administrative Burdens and Maximizing Resources

We support the discussion draft's provisions that amend section 203 of NAHASDA (25 U.S.C. § 4133) pertaining to program requirements contained on pages 4 -7 of the bill because the ultimate effect of these provisions will be the reduction of administrative burdens. Also, these provisions will allow the San Carlos Housing Authority to utilize its human and financial resources in a more efficient and fiscally sound manner. These provisions allow for recertification of families on fixed incomes every 3 years, allow for the use of grant amounts over extended time periods, and implement a *de minimus* exemption for procurement of goods and services under \$5,000.

Expanding the Availability of Records

We support the provision in the discussion draft that amends section 208 of NAHASDA (25 U.S.C. § 4138(a)) pertaining to the availability of records on page 7 of the bill. This provision allows for tribes or housing authorities to obtain criminal conviction records for applicants for employment in addition to the current provision that allows tribes and housing authorities to obtain criminal conviction records for prospective applicants and current tenants. This provision in the bill will allow for increased accountability of the workforce.

However, this provision could potentially be improved by implementing an enforcement mechanism for law enforcement agencies who fail to cooperate. Also, we suggest that language be included that allows tribes and housing authorities to be exempt from the costs of obtaining such information or allows them to obtain a waiver for the costs. The Housing Authority also anticipates additional operational and administrative challenges in terms of this provision when the provisions of the Adam Walsh Act take effect.

Conclusion

In conclusion, the San Carlos Apache Tribe is committed to improving the housing conditions on the Reservation, but we need your help. Additional federal funds and resources must be made available to Indian tribes in order to successfully confront the dire housing problems in Indian Country. I hope that this information is helpful in assisting the Committee as it works to reauthorize NAHASDA and to improve the housing situation in Indian Country. We deeply

appreciate your efforts and look forward to working with you to rebuild our communities so that our people can have a better quality of life and a more promising future.