

*Testimony of
Joe Shirley, Jr.
President of the Navajo Nation*



*Before the
HOUSE FINANCIAL SERVICES, HOUSING AND
COMMUNITY OPPORTUNITY SUBCOMMITTEE*

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Subcommittee on Housing and Community Opportunity
Committee on Financial Services
U.S. House of Representatives

Hearing on Improving Housing Opportunities for Native Americans
(May 3, 2004 -- Tuba City, Arizona)

**TESTIMONY OF JOE SHIRLEY, JR.
PRESIDENT
THE NAVAJO NATION**

I am Joe Shirley, Jr., and I am the elected President of the Navajo Nation, the country's largest Indian tribe. It is with great pride that the Navajo Nation government, the Navajo Housing Authority and the Navajo people sincerely welcome you, Mr. Chairman, and the Members of the Subcommittee to Tuba City on the Navajo reservation. And, I want to acknowledge and express our appreciation to our Congressman here in the 1st District of Arizona, Representative Rick Renzi, for his hard work and attention to the needs of the Navajo Nation.

It is especially fitting that the Subcommittee has traveled here to our home to learn more about the many thousands of Navajo, other American Indians and Alaska Natives who have either no homes of their own or homes that by any measure compare only to those in impoverished Third World countries. Mr. Chairman, we are well aware of your leadership in facilitating adequate housing for all Americans, and we ask that you and your colleagues leave today with a renewed commitment to addressing and resolving the critical housing needs of American Indians and Alaska Natives across America.

With me today, and available as may be necessary to respond to the Subcommittee's questions, is Chester Carl. Mr. Carl is the Chief Executive Officer of the Navajo Housing Authority, the largest tribally designated housing entity in the United States.

INTRODUCTION

Spanning over 18 million acres in Arizona, New Mexico and Utah, the Navajo Nation is larger than Connecticut, Delaware, Maryland, Massachusetts and Rhode Island combined. In contrast to those northeastern States, however, the Navajo Nation has an average unemployment rate ranging from 38% to 56%, depending on the season. More than 56% of the Navajo people live below the poverty level, and median per capita income in the Navajo Nation is \$7,269. Approximately 78% of public roads on the Navajo Nation are gravel or dirt, and many are impassible when the weather is bad.

While the Navajo Nation government and the Navajo people are hard working and committed to the pursuit of economic self-sufficiency, our efforts are repeatedly undercut by various obstacles, of which the most significant are the massive infrastructure deficiencies that exist here in Indian country. The historic lack of infrastructure prevents us from competing on a level playing field with America's most economically depressed non-Indian areas for investment capital and jobs.

BACKGROUND -- NAVAJO HOUSING NEEDS

Established in 1963 as a public body of the Navajo Nation, the Navajo Housing Authority (NHA) is today responsible for over 8,130 housing units under NHA management. These housing units consist of public rental, mutual help, and units under the Native American Housing Assistance and Self-Determination Act (NAHASDA). A Board of Commissioners governs NHA, overseeing a professional management staff responsible for operating in a businesslike manner in compliance with applicable Navajo Nation and Federal laws and regulations.

Despite NHA's evident successes, its devoted officials and staff labor each day with the knowledge that their efforts hardly scratch the surface of the housing needs of Navajos. Almost 32% of Navajo homes lack plumbing, 28% lack kitchen facilities and 60% lack telephone service -- all "luxuries" that are taken for granted in most other communities in America.

The Navajo Nation presently estimates the need for at least 20,000 additional new housing units for our people, and the actual need may be closer to 30,000 new housing units.

Needless to say, the enormity of our housing needs, together with the needs of other Indian tribes and Alaska Native communities, provide a compelling and uncontroverted argument for Congress to devote extensive new resources to NAHASDA block grants and other Indian housing programs.

OPPOSITION TO RECENT HUD POLICY DECISION

Mr. Chairman, having summarized the overwhelming housing needs of Navajo families and the necessity for increased funding of NAHASDA's Indian Housing Block

Grant (IHBG) program to meet those needs, I must turn to a specific issue that threatens to undermine our ability to provide adequate housing for our people.

The Navajo Nation and the Navajo Housing Authority are deeply concerned that a **recent HUD policy decision will cause an estimated reduction in excess of \$5,000,000 annually in IHBG grants to the Navajo Nation and the Navajo Housing Authority** and large reductions in the allocations of many other tribes. This HUD policy decision, made without the required consultation with Indian tribes, subverts the letter, intent and spirit of NAHASDA, and will prevent the Navajo Nation (as well as numerous other tribal governments on Indian reservations throughout the country) from serving the vital housing needs of our people.

This policy decision -- announced by HUD during the pending "negotiated rulemaking" to change the IHBG funding formula, but decided by HUD independently and outside of the rulemaking process -- mandates the use of so-called "multi-race" Census data to determine what constitutes the "Indian" population for the purpose of the NAHASDA IHBG formula. HUD's decision to use multi-race data will severely skew the results of that formula, causing deep reductions in the housing allocations of some tribes while inflating the allocations of other tribes based on individuals who designated multiple races -- including "American Indian and Alaska Native" (AIAN) -- but who would not be considered "Indians" under NAHASDA. Let me briefly explain.

For the first time, the 2000 Census allowed those responding to questions on race and ethnicity to check one or more of the listed race categories. By contrast, the 1990 Census required respondents to check only a single category to indicate their race. If you compare the number of those who identified themselves as AIAN in 1990 to those in 2000 who identified as AIAN alone and as AIAN together with one or more other races, the results readily illustrate how the use of multi-race designations can lead to anomalous and ultimately harmful results.

In 1990, almost 2 million people identified themselves as AIAN only. Yet, in 2000, over 4 million identified themselves either as AIAN alone or as AIAN in combination with one or more other races -- which would amount to an incredible 110% AIAN population growth rate (compared to the U.S. population growth rate of only 13%)! The number of those who identified themselves as AIAN alone in 2000 was 2.5 million -- a figure much more realistic and closer to the population growth rate nationally. Moreover, studies based upon a 2001 Census survey also have shown that a substantial majority of those who checked boxes in the 2000 Census to the effect that they were AIAN and also belonged to another race would have selected a non-AIAN designation if they had been asked to list only one race. Yet, despite the fact that the AIAN alone data is much more reflective of the true Indian population under the NAHASDA definition of Indian (which I will discuss in a moment), HUD has now chosen to use the multi-race data in the formula.

HUD's decision will have a devastating impact by reducing funding allocations for Indian housing on many reservations, severely hurting Indian tribes and Indians whose housing needs have not declined. When the multi-race data is plugged into the

IHBG formula, the resulting allocations are shifted in favor of areas with populations that self identify as AIAN in combination with other races (which tend to be more urbanized, non-reservation areas) and to the detriment of those areas with populations that self identify as AIAN alone (which tend to be reservation lands).

HUD's own preliminary estimates reveal that the Navajo Nation will suffer the largest single cut in funding -- more than \$5 million -- that will be taken away from Navajo families desperately in need of adequate housing. Other tribes located right here in Arizona also will face severe reductions in their allocations. For example, the Tohono O'Odham tribe will lose \$743,937 -- an 11% reduction; the Hopi will lose \$613,319 -- a 17% reduction; the Salt River Pima will lose \$738,073 -- a 24% reduction; and the Chochiti will lose \$111,820 -- a 35% reduction. These are just a few examples of tribes that will lose ground in their efforts to provide adequate housing -- not because of any measurable change in the needs of their people, but instead because of a change by the Census Bureau in the way it counts individuals and HUD's counterproductive insistence on utilizing a multi-race Census count that bears little relation to reality in Indian country. Congress must not allow this untenable and unfair result to stand.

HUD's decision to use multi-race data also runs counter to the letter, intent and spirit of NAHASDA, which clearly defines "Indian" as "any person who is a member of an Indian tribe." HUD's policy violates tribal self-governance rights to determine, via enrollment, for example, those who are members of the tribe -- the very population that NAHASDA was intended to benefit. Congress itself wrote in NAHASDA that "providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status" and that "Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities . . ." (emphasis added).

Moreover, for purposes of determining "the need of the Indian tribes" in the allocation formula, Congress allowed for the use of "[o]ther objectively measurable conditions as the Secretary and the Indian tribes may specify" (emphasis added). We note that earlier versions of the NAHASDA bill did not include the words "and the Indian tribes," so Congress plainly directed that Indian tribes were to be an equal party in the designation of such objectively measurable conditions, and not simply the recipient of HUD dictates that substantially affect tribes' rights.

In short, Mr. Chairman, HUD's decision to dictate to Indian tribes who should be counted as Indians violates NAHASDA (which, after all, is the Native American Housing and Self-Determination Act) and ignores the unique government-to-government relationship between the Federal government and Indian tribes, the Federal government's trust responsibility to Indian tribes and their members, and the rights of Indian people to self-determination and self-governance.

The Navajo Nation and the Navajo Housing Authority respectfully request that the Subcommittee, in the exercise of its oversight responsibilities, act expeditiously to

review -- and correct -- this misguided HUD decision that ignores federal law and will hurt the very people whom HUD is charged by Congress to protect. We strongly believe that tribal enrollment figures provide the best indication of who are Indians under, and entitled to the benefits of, NAHASDA. Alternatively, the Navajo Nation and the Navajo Housing Authority believe that use of the 2000 Census AIAN alone count -- rather than the multi-race count -- not only allows HUD to use updated Census data, but also, as explained previously, more closely reflects the actual count of "Indians" under the NAHASDA definition and funding allocations that are in accord with the Congressional intent and purposes of NAHASDA.