TESTIMONY OF DENNIS HORN, ESQ. BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS ON REGULATORY REFORM

Mr. Chairman, thank you for inviting me to testify today before this esteemed Committee. My name is Dennis Horn, and I am an attorney at Holland & Knight LLP here in Washington. Over the last several years, I have served as a consultant to the District of Columbia ("the District") on the District's efforts to implement Congressionally-mandated regulatory reform. I understand that S. 614, the Indian Tribal Regulatory Reform and Business Development Act of 1999, will attempt to do for Indian Country what the National Capital Revitalization and Self-government Improvement Act ("Revitalization Act"), Public Law 105-33, did for the District. While I cannot speak authoritatively on Indian issues, I do believe there are important lessons to be learned from the District's regulatory reform experience.

As you all know, from 1970 until 1998, the District suffered a steady decline in population, jobs and quality of life. Since 1970, the District lost 25 percent of its population. Three years ago, the District was on the verge of bankruptcy with a cumulative deficit of $500 million. The District's unemployment rate was more than double the regional average. In fact, the District lost 14,000 jobs in 1996 alone. Similar economic distress can be witnessed in parts of Indian Country. Moreover, you may consider that the District model is applicable to Indian Country because of the District's significant reliance on the federal government - the District received 24 percent of its budget from the federal government in 1996.

The District was infamous for its high taxes and low quality of services. With the federal government downsizing, the District was stagnating economically. Private

enterprise was booming in the region surrounding the District, primarily because the regulatory system was more readily understandable and more business-friendly. For example, the District government took 4 months on average to process a building permit application for either commercial or residential projects. Neighboring jurisdictions took an average of 2 months for commercial projects and 2 to 4 weeks for residential projects. It's no wonder Northern Virginia was attracting technology-based businesses on a routine basis. However, the District's insurmountable red tape, numerous outdated statutes and regulations, and overly burdensome regulation of professions and occupations stifled any private sector-driven development or growth. It was at this juncture that Congress decided to act.

On August 5, 1997, the President signed the Revitalization Act into law. Among its myriad provisions, the Revitalization Act required the D.C. Financial Responsibility and Management Assistance Authority ("the Authority") to hire consultants to develop and institute reforms to improve public services for the following departments and government-wide functions: Administrative Services; Consumer and Regulatory Affairs; Corrections; Employment Services; Fire and Emergency Services; Housing and Community Development; Human Services; Public Health; Public Works; Asset Management; Information Resources Management; Personnel Management; and Procurement. In addition, the legislation required the Authority to complete within six months a review of existing regulations and processes for obtaining permits and applications of all types. The rebirth of the District that we witness today can be directly traced back to this important piece of legislation.

The Authority hired a team of consultants - of which I was one - to undertake

Congressionally-mandated regulatory review. The Regulatory Reform Team focused on creating a regulatory environment that promotes economic development and growth. To accomplish this goal, we determined that the District's regulations had to be: (1) easy to understand, administer, and enforce; (2) predictable in application; (3) competitive with neighboring jurisdictions; (4) focused on consumer service rather than on processes; (5) less costly to the business community; and (6) devoid of unnecessary administrative burdens. Keeping in mind the goal of spurring economic development, i.e. bringing in new businesses and creating jobs, we recommended regulatory reforms that would improve the District's image, infrastructure, quality of life, business climate, and available development incentives.

We developed a list of regulatory targets that included: land use and development permits and approvals; regulation of professions and occupations; street and alley closings; environmental regulations; rent control/sale and conversion of rental housing; updated construction codes; self-certification in construction; code enforcement; business licenses; street vending; unemployment insurance and workers compensation; privatization, outsourcing and managed competition; and parking. We then determined that the two highest priorities, those that would appeal to anyone looking to expand a business or start a new business in the District, are reform of land use and development and regulation of professions and occupations licensing. We made numerous recommendations to streamline the regulatory process in these areas and others.

At the time the Revitalization Act was passed, there already existed a Business Regulatory Reform Commission ("BRRC"), whose representatives consisted of members of business, industry, and government. They too were instrumental in promoting the

much-needed regulatory reform. Again, in Section 11701, Congress made it clear in the Revitalization Act that the Authority's regulatory review should take into account the work and recommendations of the BRRC. Others in the public and private sectors including representatives of consumer groups and neighborhood preservation groups, played important roles in the streamlining process.

I cannot overstate the importance of the Revitalization Act in fostering the rebirth of our Nation's Capital. Armed with a wealth of information on how the current system was impeding growth and development, the Authority, on May 28, 1998, adopted a Resolution, Orders and Recommendations on Regulatory Reform. The Authority made 49 legislative recommendations to the Mayor and the City Council and issued almost 200 orders for new regulations and administrative procedures in the District government. The City Council expressed their concurrence with a vast majority of these recommendations and by enacting two statutes, the Omnibus Regulatory Reform Amendment Acts of 1997 and 1998.

Throughout the District, the results are clear and unequivocal. Office space has increased, construction cranes are everywhere . . . It is clear that the District's economy is diversifying and more importantly, private employment is rising. According to one report, employment of District business grew by 6,800 jobs in the first two months of 1999 alone. The unemployment rate fell from over 9% in 1997 to 7.49 today. Capital investment is expanding. Home and property values are rising. At the same time, the wait for government services is going down. For example, the Department of Consumer and Regulatory Affairs has eliminated a 6-month backlog of electrical inspections. The same agency has also committed to reviewing building plans for projects worth $75,000 or less

in 5 to 7 days and plans for projects worth $1 million or so within a month. DCRA has also introduced "post card permits" for simple building projects and has introduced an interactive WEB site to allow customers to complete business and licensing applications on line and to pay the associated fees via the Internet. In fact, KPMG Peat Marwick just completed a study of best practices in municipal services among American cities. The report concluded that Washington, D.C. has in the past year, moved from the close to last in all categories to one of the top two cities in the country in 6 of 7 categories of Building and Land Permits. While there is still much left to do, it is evident the climate has changed.

The District is not the only place where regulatory reform has proven to be a success. The process has worked in places like New York City, the State of Washington, and the City of Indianapolis. With successes at both the city and state level, I see no reason why it cannot be applied by sovereign Indian tribes to attract diverse, job-creating companies to reservation lands.

Regulatory reform is about creating jobs by eliminating unnecessary red tape. Businesses locate where it is easy for them to do business. They look for access to markets and motivated employees. They also look for a business-friendly environment. An Indian reservation may not be able to control its location in relation to markets, but it can control its business environment. Four things were important to the District's success with regulatory reform;

- Congress mandated the reform and set strict timetables for results to be reported back to Congress.

- The Authority, which was tasked with Regulatory Reform, had the power to enact the recommended changes. (In fact, while the D.C. Council passed most of the necessary statutory changes, both the Council and the Authority ducked some of the more controversial issues, like rent control. However, nothing would have happened without the Authority's power to pass laws and regulations.
- Extensive consultations with both the businesses that are regulated and the citizen and consumer groups who the regulations are designed to protect were important to the project's success. In many cases, the existing regulations served nobody and everyone favored change.
- The D.C. government wanted to change its regulatory scheme. The bureaucrats were as frustrated as the business community and the citizens. The government simply needed to be shown a better way.

Mr. Chairman, in your statement upon introduction of S. 614, the Indian Tribal Regulatory Reform and Business Development Act of 1999, you noted that over time, "laws, regulations and policies have been built up - often with good intentions - but have outlived their usefulness or relevance to the contemporary needs of Indian tribal governments and economies." We who worked on the District's regulatory reform project noted the same phenomenon. Much of the bureaucracy and red tape in the District was designed to address historical problems that no longer exist. Regulatory reform can be used to clear out the deadwood.

Mr. Chairman, I am aware of the troubles that Indian lands are having attracting private sector enterprises. With dwindling federal financial aid, it is imperative that Indian tribes promote a more efficient, streamlined environment to foster private sector growth

and development. The District was in a similar situation. Congress sparked the District's renaissance by passing the Revitalization Act. To the extent that S. 614 leads to true reform of laws and regulations impacting investment and business development on Indian lands, I believe the bill will provide benefits to Indian tribes for years to come. Thank you again for inviting me to testify. I will be happy to answer any questions the Committee may have.

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