



COEUR D'ALENE TRIBE

CHIEF J. ALLAN CHAIRMAN

P.O. BOX 408

PLUMMER, IDAHO 83851

(208) 686-5803 • Fax (208) 686-8813

chairman@cdatribe-nsn.gov

August 10, 2010

Hon. Byron Dorgan, Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, DC 20510

Testimony of Chairman Chief J. Allan of the Coeur d'Alene Tribe of Idaho Concerning Economic Development and Social Issues Facing Northwest Tribes

Dear Chairman Dorgan,

I first would like to thank you, Chairman Dorgan and others on the Committee, for the opportunity to present testimony today regarding issues that matter most to the Coeur d'Alene Tribe and other similarly situated Tribes here in the Northwest. I would also like to commend you and this committee for the efforts you have undertaken to improve the lives of Native people. The recently passed Tribal Law and Order Act is a great illustration of this and we applaud you for its passage. We appreciate your dedication to fighting the good fight for Indian Country. There is no doubt you will be dearly missed.

While it is certain that Tribes all across Indian Country often suffer from many of the same issues, I would like to address a few issues of utmost importance to the Coeur d'Alene Tribe, which are likely not exclusive to our Tribe, but may provide a perspective into the issues that other Tribes in the Northwest struggle with as well.

One of the major issues facing the Coeur d'Alene Tribe is the direct and indirect effects of the massive land losses suffered on the Coeur d'Alene Reservation in the late 1800s and early 1900s brought about by the General Allotment Act. During the years of allotment and homesteading, ownership of nearly eighty percent (80%) of our reservation land base was transferred to non-Indians, in most cases without the consent of the Tribe or our members. As a result, only about 1,500 of the 10,000 people living on the Coeur d'Alene Reservation are tribal members.

While we have embraced the non-Indian population on the reservation with open arms, the US Supreme Court has placed ambiguous and difficult limitations on what conduct Tribes can govern on the Reservation through rulings in cases like *Oliphant, Montana* and *Yakima*. This ambiguity creates confusion and sometimes hostility when Tribes

attempt to regulate certain practices within the boundaries of their reservations. This tightrope act has been one of the primary challenges facing the Coeur d'Alene Tribe.

In response to concerns about certain decisions, the Supreme Court boldly stated "If we have got something wrong here, we invite Congress to fix it." With all due respect to members of the Court, they have gotten several things wrong in cases involving Tribal interests and we must implore Congress now to fix it. We appreciate the Committee's efforts to push a remedy to the *Carcieri* decision but we feel that Congress and Tribes must work together to tackle other issues imposed upon us by questionable US Supreme Court rulings.

The decision set forth in *US v. Montana* has caused more confusion and erosion of Tribal sovereignty than possibly any other single case. The *Montana* case and its progeny have diminished Tribes' ability to control their own destiny on their own lands with unfavorable rulings regarding taxation, land use regulation and hunting and fishing. This trend of chipping away at Tribal sovereignty must be reversed and a legislative fix to *Montana* that establishes and identifies tribally regulated and proscribed forms of conduct on reservation lands is in order. We would respectfully request that the Committee consider establishing clear Tribal authority over land use regulation, air and water quality, and management of the fish and game on reservation lands, regardless of land ownership.

County of Yakima v. Yakima Nation is another questionable Supreme Court decision that adds further insult to injury regarding the loss of our homelands. Under *Yakima*, Tribal lands that have been recovered and owned in fee status, usually purchased by the Tribe at above-market prices, can be assessed a property tax by the state or county. Our lands, once promised and dedicated to our sole use and occupancy, later taken without our permission, and now restored after paying top dollar to buy them back, are still subject to the taxation of the State. The Coeur d'Alene Tribe pays hundreds of thousands of dollars in property taxes each year. This notion is offensive. We respectfully request that the committee explore and adopt a legislative remedy for the ill-conceived policy created by the *Yakima* case.

The *Oliphant v. Suquamish Tribe* case has engendered literal lawless zones on some reservations. The fact that Tribes do not have criminal jurisdiction over non-Indians does not go unnoticed by criminals. On a reservation where 85% of the residents are non-Indian, our Tribal police department is consistently responding to incidents involving non-Indians. If the state or county is unable or unwilling to assist in the incident and the Tribal officer is not authorized to enforce state law, the perpetrator goes unpunished. While we feel that the Tribal Law and Order Act takes significant steps toward addressing these problems, it may not do enough for checkerboarded reservations with high populations of non-Indians. A legislative fix to the *Oliphant* case would.

Another derivative from the loss of our ancestral lands is the process set up by the federal government to restore those lands to trust status, commonly referred to as the Fee to Trust process. Fee lands owned by the Coeur d'Alene Tribe and its members have not been

taken into trust in over three decades. Recently, the BIA has made some progress on streamlining this process and the Tribe has even received a few favorable decisions recently, but the costs associated with the application process make it extremely difficult for the Tribe and its members to pursue. In addition, appeals from local counties cause further delays in the acquisition process.

While this is just one of the components of a much larger issue that we refer to as Trust Reform, it is one that must be remedied. This Committee has heard hours of testimony from Tribes frustrated with this broken process. We urge you to consider legislation that would eradicate the bureaucratic red-tape and effectuate the transfer of lands acquired by Tribes or Tribal members in fee status to an automatic trust status if those lands are located within the boundaries of their reservation. We must keep in mind that these lands, were taken from us, and it frustrating and demeaning to have to petition the federal government for three decades to put it back to a status where it will again be considered "Indian lands."

Another major issue facing the Coeur d'Alene Tribe and other Northwest Tribes is education. It is no secret that the quality of life one can attain is often commensurate with the amount of education one gains. The education system in Indian Country is in dire need of assistance. Many of our students today have parents and grandparents that were once taken from their homes, exiled to boarding schools and beaten if they spoke the Coeur d'Alene language or engaged traditional practices. This may help explain some of the history behind the resistance to education in Indian Country. But it must be overcome and it has to start with parental involvement at a young age and continue throughout the rest of their schooling. When parents don't stress education, our students lose interest and drop out. Our school district suffers from one of the lowest proficiency and highest drop out rates in the state. We would welcome assistance from the Committee in exploring programs tailored to the unique history and needs of Indian people as it relates to education. A program must be developed that involves and educates parents at the same time teaching the value of education to our kids, who are our future.

While many of the foregoing issues impact the economic development of a Tribe, there are other more specific concerns we ask the Committee to consider that will protect and develop economic self-sufficiency on a reservation. Congress must do more to preserve and develop the SBA 8(a) program. This program, one of the few government programs providing the results for which it was intended, has been under a systematic attack from some members in Congress. Section 811 of the Defense Authorization Act of 2010 and the confusion with parity among SBA programs has effectively singled out Native-owned 8(a) firms, reducing the amount of jobs and revenue for such companies, most of which located in the most poverty-stricken areas of the nation. This program must be protected and expanded. We ask the Committee to join us in our fight to preserve Native 8(a).

We would like to commend the Committee in its development of the Native American Employment Act, that spawned the Native American Investment Initiatives Amendment (the "Amendment")- that will hopefully be included in some future successful legislation. The Coeur d'Alene Tribe got its name from French trappers for our savvy business and

trading practices and we continue to invest in businesses on and around the reservation as a means to diversifying our tribal economy. The Amendment will take steps to further this mission. There is a great need to facilitate small business on reservations, prevent leakage in the Tribal economy by fostering business friendly environments for individual Tribal members and outsiders alike. It is a foundation built upon small business that has provided the stability of this country and Indian Country is no different.

Like many Tribes, the Coeur d'Alene Tribe suffers from the lack of adequate infrastructure and viable funding for such infrastructure needs. Roads, sewer systems, housing, bridges and other projects need to be updated, improved or simply constructed to provide basic living accommodations to our tribal members and prepare for any realistic growth opportunity. As earmarks become increasingly scarce and loans are beginning to replace grant dollars, we would ask that the Committee revisit the need to invest in the dire infrastructure deficiencies prevalent throughout Indian Country.

Another issue of immense proportions is the amount of drug and alcohol abuse on the Coeur d'Alene Reservation and others. We feel strongly that this epidemic can be better treated with transitional treatment houses and other forms of substance abuse treatment centers. Currently, these transitional treatment houses do not exist on many reservations. Without them, one wise elder once put it, "we are taking the kids out of the mud puddle, cleaning them off and putting them right back in it." We ask the Committee to dedicate efforts to addressing the realities of substance abuse in Indian Country and looking at funding for transitional treatment centers on reservation as a viable solution.

The Coeur d'Alene Tribe is honored to provide our testimony today. If you have any questions, please contact our Legislative Director, Helo Hancock, at (208) 686-0752 or hhancock@cdatribe-nsn.gov. Thank you and we look forward to working with you and the Committee on these important matters in the future.

Sincerely,

A handwritten signature in blue ink that reads "Chief J. Allan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chief J. Allan
Chairman
Coeur d'Alene Tribe