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DOES INDIAN SCHOOL SAFETY GET A PASSING GRADE?

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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DOES INDIAN SCHOOL SAFETY GET A PASSING GRADE?

THURSDAY, MAY 13, 2010

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room 628, Dirksen Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. I am going to call the hearing to order. I will be joined by my colleagues shortly, but in the interest of starting to begin, today we are going to examine a basic and important question of whether Indian children are safe when they attend schools that are operated by our Federal Government.

We operate 184 schools throughout the Interior Department's Bureau of Indian Education. These are 184 schools throughout Indian Country, and the agency is responsible for the safety of 44,000 children, thousands of teachers and staff who in many cases work at and live at these schools.

The schools are owned and operated by the United States and we have an obligation, of course, to ensure that students and faculty have a safe place to learn, to teach and to live, in some cases. We have had reports previous to this of disrepair and circumstances that show that BIA schools are some of the schools in our Country that are in most desperate need of new investment and new safety regulations.

So today we are continuing this discussion. It is the case, I think, in the past it has been and still is in many respects a circumstance where we are failing to meet our obligations. A number of schools suffer serious structural problems and lack policies and plans to ensure the protection of students, faculty and staff.

From what we know, it appears that safety inspections are not consistently performed. Maintenance and repairs that directly relate to safety are not always prioritized. We have held numerous hearings on this, and the Inspector General has issued numerous reports describing these problems.

A recent investigative report by a news organization in Albuquerque, New Mexico highlights some of the problems there. They found that several schools in New Mexico had fire alarms that failed to work. In one instance, the school silenced the fire alarm

because it malfunctioned too often. In another school, the fire alarms do not work and are so old you could no longer get parts to fix them. Only 3 of 36 schools in a 2009 report had safety inspections performed, although they were supposed to be annual inspections.

The response from the BIA back then was that they just don't have the money to replace fire alarms. Inadequate funding for school improvements, repairs and construction is just a chronic and an ongoing issue. We all agree on that. The question is what is it going to take to fix it. When I hear that we don't even have capabilities to fix fire alarms at schools, I worry about it.

Although we all agree that more funding is needed, the Administration in its budget request failed to request an increase in funding for fiscal year 2011. In fact, they asked for a $9 million cut in education construction funding. I have requested that the funding for school construction be restored to the 2003 level and that would be an increase above the President's current request.

Funding is always going to continue to be a problem, I understand, but my real concern is that proper policies and procedures need to be in place to identify and quickly correct safety issues at the Department schools. There needs to be a process for identifying and then prioritizing maintenance and repair projects that directly relate to safety.

Department safety officers have identified over 85,000 safety deficiencies at the schools. However, only 25,000 have been corrected. So more than two-thirds of safety deficiencies that have been identified remain unaddressed and I think in many cases dangerous.

The 2007 Inspector General's report said "these deficiencies have the potential to seriously injure or kill students and faculty and require immediate attention to mitigate the problems." Yet, schools on one of my reservations in the State of North Dakota continue to have fire alarms that fail to work, sprinkler systems needing to be replaced, and no emergency evacuation plans.

I think there needs to be a clear path from the Department on how we are going to address these issues, what the cost is, and what kind of plan we develop going forward. We just can't allow tens of thousands of students, faculty and staff to remain in conditions that I think can be and in many cases are unsafe.

I thank the witnesses that have volunteered to come today. We will, I would say before I call on the witnesses, place their full written statements for all of them in the record. We will ask them to summarize. We will also leave the record open for two weeks following the hearing for additional submissions.

Let me call on my colleagues for any opening statements.

Senator Barrasso?

STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING

Senator BARRASSO. Thank you very much, Mr. Chairman. I appreciate your holding this hearing today and I want to welcome each of our witnesses for being here.

Mr. Chairman, as you said, having a safe environment to study and to learn is essential. It is essential to children's academic achievement. The report in recent years from the Inspector General

and from tribal leaders indicates that many Indian schools are not providing a safe environment.

The report describes, and I won't go into each of the specific details, Mr. Chairman, because you have clearly done that in a very effective way, but what we all see is an environment that is unacceptable, including major and minor construction deficiencies, missing emergency preparedness plans, school violence indicators, and failure to perform background checks on employees.

So in today's hearing, Mr. Chairman, I hope we will hear about progress, progress that the Department of the Interior has made to meet the recommendations of the Inspector General.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Franken?

STATEMENT OF HON. AL FRANKEN,
U.S. SENATOR FROM MINNESOTA

Senator FRANKEN. Mr. Chairman, thank you for holding this hearing on this important issue of safety in Indian schools. I have talked about the deteriorating condition of Indian schools time and time again in this Committee. The condition of BIA's schools is an unconscionable threat to the health and well being of children in Indian Country.

The budget for Indian school construction has been consistently cut since 2004, and this year is unfortunately no exception. The President's budget cuts school construction by $9 million even after accounting for internal transfers between BIE accounts.

I have worked with Chairman Dorgan and several of my colleagues on this Committee to call for a return to the level of $293 million that we appropriated for Indian school construction back in 2003. That will allow us to finally get to schools like the Bug-O-Nay-Ge-Shig School at Leech Lake Reservation. The condition of these schools is an injustice. There is just no other way to put it. We have to do something about it.

In addressing school safety in Indian Country, we must also address school violence, an issue that rings close to home in Minnesota. On March 21 of this year, Minnesota and the Nation commemorated the five-year anniversary of the Red Lake Massacre. On that tragic day, a 16 year old student on Red Lake Reservation shot and killed his grandfather, his grandfather's girlfriend and others at Red Lake High School before taking his own life.

In the wake of the massacre, the Red Lake community decided that they would not be defined by the tragedy. Instead, they chose to be defined by their ability to overcome it. Over the past few years, the Red Lake community has worked tirelessly to improve the safety and well being of its students. As part of this effort, the Red Lake School District has instituted reforms to reduce school violence. The district has, for example, implemented behavioral management and anti-bullying programs in the schools. As a result, school discipline problems in the district have decreased dramatically.

School safety challenges, however, are not confined to the boundaries of Red Lake. As a recent report by the Department of Interior Inspector General's Office shows, schools across Indian Country are

ill-equipped to protect their students from internal and external threats of violence. For example, the Inspector General's Office found that many BIE schools failed to provide their staff with adequate training on preventing violence and responding to emergencies. This is very concerning.

The Red Lake community has shown us what we can do to address the challenge. It is time that we provide schools across Indian Country with the support that they need to adopt the types of reforms that the Red Lake community has instituted.

I agree with my colleague, Senator Udall, that we have a national emergency on our hands. We must act before it is too late.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Tester?

STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Mr. Chairman.

I want to echo the comments by the previous Senators about my appreciation for you holding this meeting. I want to thank the panelists for being here today.

Outside of the obvious problem of unsafe schools, and personal bodily injury, we all know for a fact that poverty runs high in Indian Country. We all know for a fact that, at least in Montana and I am not so sure it isn't this way around the Country, if you want to know where the at-risk population is, it is our Native Americans.

If you don't have safety in schools, there is no way you are going to know how to read or write; no way you are going to have the opportunity to learn; no way you are going to be able to really focus and develop the kind of skills it is going to take to develop an economy that right now in Montana and many reservations is about 70 percent to 80 percent unemployment.

The bottom line is, all this stuff joins together. All this stuff dovetails with one another. And this is a problem that is so obvious that if we can't fix this, there is no way we can give folks hope that need hope more than anybody else.

So with that, I do appreciate the panel being here. I appreciate the Chairman stepping up to the plate once again and holding a hearing on a topic that is very, very important.

The CHAIRMAN. Senator Tester, thank you very much.

We are joined by the Honorable Larry Echo Hawk.

Senator Udall, how are you? Senator Udall, do you have an opening statement?

Senator UDALL. Yes, I think so. Did Senator Tester provide one?

The CHAIRMAN. Senator Tester has already delivered an opening statement, to a standing ovation.

[Laughter.]

Senator UDALL. Thank you very much.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Chairman Dorgan, I want to thank you for holding this hearing. It is a very important hearing both for the Country and native students, and it is also important to New Mexico because we have re-

cently had some incidents that have highlighted the problem in our schools.

I would like to welcome all of our witnesses, especially my good friend, Assistant Secretary Larry Echo Hawk and the Laguna School Superintendent, Dr. Fairbanks. I am pleased today to welcome Dr. Fairbanks to witness before the Committee on the important issue of BIA safety, and specifically on his experience in the Pueblo of Laguna in New Mexico.

As Superintendent with the Pueblo of Laguna Department of Education since 2007, Dr. Fairbanks has direct experience struggling to make it through the long line of maintenance and construction backlogs while the Pueblo's elementary school continues to sink deeper into despair.

Dr. Fairbanks has been an advocate of education for over 28 years across the Country. He previously served as the Assistant Professor for New Mexico State University, as the Native American Development Specialist for the University of Wisconsin, and as an elementary school Principal and a pre–12 Dean of Students, and as a middle school and high school football coach.

Dr. Fairbanks has a master's degree in education, a doctorate in educational policy and administration, and is a Ojibwe of Red Lake and White Earth Indian Reservations in Minnesota. And we welcome him as a representative of the Pueblo of Laguna and the many other tribes in New Mexico that want to educate their students in good, safe schools.

So I am going to put the rest of my statement, Chairman Dorgan, in the record, but as you all know, I have been calling for a Marshall Plan to eliminate the backlog in construction and maintenance of BIA facilities, and at the same time, the taxpayers and native communities deserve assurance that these monies will be spent accountably and that they would be spent in a cost-effective way.

So with that, thank you very much. I am very much looking forward to the witnesses today.

[The prepared statement of Senator Udall follows:]

PREPARED STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO

I want to thank Chairman Dorgan for holding this hearing to examine school safety in tribal schools, and what must be done to keep our Native schoolchildren and staff safe and secure in these facilities.

I would like to welcome all of our witnesses this morning, including my good friend, Assistant Secretary Larry Echo Hawk, and Laguna School District superintendent, Dr. Fairbanks.

I am pleased today to welcome Dr. Anthony R. Fairbanks to witness before the Committee on the important issue of BIA school safety, and specifically on his experience in the Pueblo of Laguna in my state of New Mexico. As Superintendent with the Pueblo of Laguna Department of Education since 2007, Dr. Fairbanks has direct experience struggling to make it through the long line of maintenance and construction backlogs, while the Pueblo's elementary school continued to sink deeper into disrepair.

Dr. Fairbanks has been an advocate of education for over 28 years across the country. He previously served as an Assistant Professor for New Mexico State University, as the Native American Development Specialist for the University of Wisconsin, as an elementary school principal, as Pre-K–12 Dean of Students, and as a middle and high school football coach.

Dr. Fairbanks has a Master's Degree in Education, and a Doctorate in Educational Policy and Administration.

Dr. Fairbanks is Ojibwe from the Red Lake and White Earth Indian reservations in Minnesota, and today we welcome him as a representative of the Pueblo of Laguna and the many other tribes in New Mexico that to educate their children in good safe schools.

Welcome.

I hope some of the witnesses will describe their experiences working to improve school facilities and safety, and I'm eager to hear their recommendations for how to do better—for we must do much better.

Some of you may know that I have been calling for a "Marshall Plan" to eliminate the backlog in construction and maintenance of BIA facilities. At the same time, the taxpayers and Native communities deserve assurance and accountability that monies appropriated for these purposes are spent in the most cost-effective manner.

I am aware that there currently exists a backlog of about $1.3 billion to repair or replace 64 schools in poor condition—facilities that have serious structural deficiencies, are not handicapped accessible, and are in violation of building and fire codes. That's 35 percent of all tribal schools, and 16 of those 64 tribal schools are in my state of New Mexico, including Laguna Elementary School.

Last month, I joined Senators Dorgan and Franken in asking the Senate Budget Committee to increase funding for BIA Education Construction to the 2003 funding level of $293 million, rather than decrease funding by $8.9 million as proposed in the President's budget.

What concerns me is that we have known for over a decade that too many of our tribal schools are in a terrible state of disrepair, affecting health, safety, and learning.

I want the best for our tribal communities. I know we all do. But I'm not persuaded that we have all acted well to bring all of our tribal facilities at least up to code. In fact, I believe that two-third's of the school facilities rated in "poor" condition in 2001 remain in poor condition today, with others improved only to "fair" condition.

I'd like to hear what plan is in place to address the deficiencies—including those recommended by several Office of Inspector General reports. My understanding is that there may be 60,000 safety deficiencies found in the past 6 years that remain unaddressed. 60,000.

How can this be, if there are tens of millions of dollars that remain unspent each year by the Office of Facilities Management and Construction?

I hope to hear how funding is prioritized—are the schools with the greatest deficiencies at the top of the priority list?

How are our appropriated funds used and accounted for, how are our tribal school facilities inspected and how are deficiencies addressed?

This is a critically important issue and I am pleased we are exploring it in greater depth today. However, it is important that we follow up with action. I look forward to hearing from our distinguished panel about how best to do so.

Thank you.

The CHAIRMAN. Senator Udall, thank you very much. And thanks for your work on this subject. It is the case, all of us understand that when the United States Government has a school, it is their school. We have a trust responsibility to run this school for Indian children. If we are not putting these children in classrooms that we are proud of, that are up to date, safe and so on, that is our responsibility. We can't ignore that responsibility.

We are joined by the Honorable Larry Echo Hawk, Assistant Secretary of the Bureau of Indian Affairs, U.S. Department of the Interior. He is the Assistant Secretary of the Interior, I should say, but in that position runs the BIA. He is accompanied by Bart Stevens, Acting Director of the Bureau of Indian Education and Jack Rever, who is the Director of the Office of Facilities, Environmental Safety and Cultural Resources.

Mr. Echo Hawk, Mr. Stevens, and Mr. Rever, thank you.

We are also joined by Mary Kendall, Acting Inspector General at the U.S. Department of the Interior.

Ms. Kendall, thank you for being here.

Mr. Echo Hawk, you may proceed.

STATEMENT OF HON. LARRY J. ECHO HAWK, ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY BART STEVENS, ACTING DIRECTOR, BUREAU OF INDIAN EDUCATION, AND JACK REVER, DIRECTOR, OFFICE OF FACILITIES, ENVIRONMENTAL AND CULTURAL RESOURCES

Mr. ECHO HAWK. Mr. Chairman and Mr. Vice Chairman and Members of the Committee, it is a pleasure for me to be with you today to talk about the important matter of school safety.

I have with me today the Acting Director of the Bureau of Indian Education, Bart Stevens, seated to my right; and also Jack Rever, who is the Director of the Office of Facilities, Environmental Safety and Cultural Resources, to my left.

I will make brief opening comments, and then we will be, of course, available to answer whatever questions you may have.

Indian education is a very high priority for the Administration. Back on January 11 of this year, Secretary Salazar reached out to Indian Country and invited into his office about a dozen Indian education experts to counsel with, have dialogue with about what we can do to better address the needs of Indian education.

In that meeting was also the Education Secretary Arne Duncan, and that was nice to see because there is an emphasis point made on collaborating with the Department of Education to assure that we are bringing all the resources we can to bear on the important issues as we try to achieve quality education for our Bureau of Indian Education schools.

And we are focusing on everything that it takes to achieve quality education. Of course, academic performance is our primary goal, but we have to pay attention, of course, to physical facilities to make sure they are adequate and safe and secure schools.

And so that is why we are here today to talk about what it is going to take to make sure that every student has a safe and secure place to learn. To accomplish that task, we need stable leadership, and we have had an Acting Director for the Bureau of Indian Education since 2007.

Secretary Salazar has been very strong in communicating that we need to get on board a permanent Director of the Bureau of Indian Education, and I am pleased to say that as of last Friday on May 7, we announced the selection of Keith Moore to serve as the new Director for the Bureau of Indian Education. He is currently serving as the Chief Diversity Officer for the University of South Dakota, and he has previously served as the Indian Education Director for the State of South Dakota. He will be assuming his responsibilities on June 1.

So Secretary Salazar and I look forward to working with Keith Moore to advance the quality of education for American Indians and Alaska Natives.

We are doing our best to respond to the safety concerns that are identified by Office of Inspector General reports, as well as investigative reports that have recently been brought to public attention. Let me just briefly highlight some of the things that we have done just recently to respond to those reports, and then we will be able to respond to more specific questions that I am sure you will have.

In response to I.G. reports, we have developed training materials that address the safety concerns and numerous training sessions have already been held to make sure that administrators and school personnel and other individuals responsible for school safety know what the challenges are and how to respond to in an appropriate way. The Bureau of Indian Education is also conducting school safety visits. Those are underway for all of the 184 schools that we have responsibility for. Those will be concluded by May of 2012, according to our present schedule.

School safety specialists have been hired by the Bureau of Indian Education recently, and we are also working on a number of national policies pertaining to safe and secure operation of BIE schools.

On December 8th of 2009, we convened a Safe Schools Summit here in Washington, D.C. and this was an effort to reach out to other Federal agencies and also private organizations to collaborate so that we could cultivate relationships and talk about how to put in place strategic partnerships that would address some things that will help in this effort to achieve safety in schools.

I think it is also important to point out that we are addressing safety school needs in a broader context. Many of the Bureau of Indian Education Schools are located in high crime areas, which means that we have to address crime in other ways besides what is specifically targeted to what is happening in the classroom.

This Committee has heard previous testimony that we have presented recently at that hearing. My Senior Policy Adviser Wizipan Garriott addressed staffing challenges that we face, as well as training changes that we are making to make sure that we are achieving high-quality police officers and detention officers.

We are also in the midst of what we call high priority performance goals for law enforcement in four select communities in Indian Country. We are demonstrating with additional resources and some very careful thought about how to craft individual plans for particular communities that we can address the crime rates that are occurring out there, turn the corner, and make those communities safer.

Recently, we have had connection with the Office of National Drug Control Policy. I was in Albuquerque just last week where they unveiled their anti-meth Indian Country initiative. And next week, I will be attending a meeting that has been convened by Director Kerlikowske here in Washington where we will talk about a drug control strategy. Indian Affairs will be represented in those discussions.

One of the other things that I think that has not received a lot of attention that I think is very important is the Coordinating Council for Juvenile Justice and Delinquency Prevention. That is something that is chaired by the Attorney General of the United States and various Cabinet departments are represented on that Coordinating Council.

The purpose is to make sure the Federal Government properly coordinates all resources of the Federal Government when it is addressing juvenile delinquency issues. They spotlight certain things that they are going to try to achieve each year, and we intervened early in the process and suggested that they take on Indian youth

as one of their four focus areas. I argued in behalf of that and the Council voted to make Indian youth one of their priority subjects. So we are going to be working with the Attorney General and other Cabinet departments to make sure that we are spotlighting some things that we can make progress on with regard to juvenile delinquency. My Policy Adviser, Wizi Garriott, is the Co-Chair of the working group that is addressing the Indian youth issues.

We are also trying to spotlight efforts to improve how we are addressing suicide prevention. There are already programs in place to do that, but we are trying to enhance the efforts that we are making to address youth suicide. We are hoping to collaborate with various agencies, even including State governments, to convene a Youth Suicide Summit later in the summer.

I wanted to briefly comment, since it has been raised, about the 2011 budget where there has been a $9 million decrease in the construction budget that has obvious impact on our efforts to try to shore up certain things that we will be talking about today. But also in that budget is an increase of $8.9 million. And that $8.9 million will provide some funding for safe and secure programs that target high-risk student behavior, staff training, student counseling, extracurricular activities and security camera systems and lighting. That is $3.9 million.

And there is an increase of $3 million for tribal grant support. This is for school systems that are not under our direct supervision, but it gives them the administrative funding to have flexibility to address the very things that we are going to be talking about today in those grant schools.

In addition, there is $2 million to establish some environmental professionals that will be paying attention, and this will be about a dozen positions, to environmental hazards that are occurring in schools. What we are talking about here would be toxic waste and other substances that have been identified by the EPA. These are problems in all of our Federal buildings, schools included. And so all 183 schools will be impacted by the work that is done if that budget request is met.

Now, I know that it is challenging times when it comes to budget, but of course we can do really good things with additional resources, but we are not waiting for additional resources. I can assure you that given the present budget that we have and whatever budget is approved for 2011 that we will make the very best effort that we can to address school safety problems.

I look forward to working with this Committee to assure that Native American students have the opportunity to obtain a quality education and that means assuring that we provide them with a safe and secure place to go to school.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Echo Hawk follows:]

PREPARED STATEMENT OF HON. LARRY J. ECHO HAWK, ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good morning Mr. Chairman, Mr. Vice Chairman, and members of the Committee. Thank you for the opportunity to provide the Department of the Interior's views on the safety conditions of schools under the jurisdiction of the Bureau of Indian Education (BIE). The Administration is committed to providing high-quality educational opportunities for the students who are educated in the 183 BIE-funded

elementary and secondary schools, consistent with the Federal Government's trust responsibility for Indian education. In order to fulfill this responsibility, it is imperative that the Department provide these students with safe and healthy environments in which to learn. We are working hard to deploy our resources in the most effective and efficient manner possible to improve BIE facilities.

Background

The BIE currently funds 183 academic and resident-only facilities on 63 reservations in 23 states, in addition to providing funding for 26 Tribal Colleges and Universities (TCUs) and two tribal technical colleges. The BIE also operates two post-secondary institutions.

Federal funding for the education of American Indian students comes from both the BIE and the Department of Education. The 183 BIE elementary and secondary schools educate approximately 42,000 students, which represents a small fraction of the total American Indian student population in the United States. Despite our many challenges in BIE, we are making strides in improving Indian education. After declines in previous years, we have seen an increase of 9 percent in the number of BIE schools meeting adequate yearly progress (AYP) from school year 2007–2008 to 2008–2009, but we are still far from achieving our goals. This Administration is deeply committed to moving things in the right direction.

Collaborative Efforts on Indian Education Within the BIE

President Obama has made improving our nation's education system a top priority, stating, "[w]e have an obligation and a responsibility to be investing in our students and our schools."

With this focus, the President has also charged those in his Administration with living up to these responsibilities by improving the delivery of educational services to Indian Country. This charge requires us to work across various agencies, and with tribal leaders, to identify and implement this objective in the best way possible.

Earlier this year, Secretary Salazar convened an historic meeting with Indian education experts from across the nation, along with Secretary of Education Arne Duncan and me. This meeting allowed senior administration officials and Indian Country leaders to begin a candid dialogue about what works in providing education services to Indian Country. We look forward to continuing this dialogue.

I am happy to report that my senior staff has been working closely with members of Secretary Duncan's staff on coordinating our resources to maximize our impact on Indian education. I have been impressed by Secretary Duncan's commitment to improving education for American children, and his keen awareness of the needs in Indian Country.

Recently, several senior officials from the Department of Education, including the Under Secretary, Martha Kanter, the General Counsel, Charlie Rose, and various Assistant Secretaries and Deputy Assistant Secretaries held four regional consultations on tribal lands on the subject of Indian education. These senior officials spent time visiting with administrators, teachers, and students at BIE schools. They were able to witness firsthand the conditions in a number of these schools.

My staff is working with other federal departments to better coordinate our delivery of education-related services. Wizipan Garriott, my Policy Advisor, is serving as Co-Chairman of the Tribal Youth and Juvenile Justice Work Group of the Coordinating Council on Juvenile Justice and Delinquency Prevention (Coordinating Council). The Coordinating Council, which is chaired by Attorney General Eric Holder, is an independent body within the executive branch of the Federal Government. The Coordinating Council's primary functions are to coordinate federal juvenile delinquency prevention programs, federal programs and activities that detain or care for unaccompanied juveniles, and federal programs relating to missing and exploited children.

We are also working with the Indian Health Service in HHS, and other organizations, to reverse the epidemic of youth suicides in Indian Country. Each young person who attempts to take his or her own life creates a widespread ripple-effect on their community, causing a deep and profound impact on students, parents, and teachers, and diminishing the richness of their learning environment. We view our efforts to combat youth suicide in Indian Country as central to our efforts to improve Indian education.

American Recovery and Reinvestment Act (ARRA) Funding Within DOI/Indian Affairs

The American Recovery and Reinvestment Act (ARRA) provided much-needed funding to replace dilapidated facilities with state-of-the art schools, and to make repairs to existing schools to improve the learning environment for thousands of students. The ARRA provided $134.6 million to replace deteriorating Bureau-funded

schools in a pre-established priority order published in the Federal Register. It also provided $143.1 million to repair building structure and system components that are necessary to sustain and prolong the useful life of Bureau-funded education buildings. Projects that did not receive funding under ARRA have been identified to improve the safety and functionality of facilities and improve the educational environment for the Indian children who attend those facilities.

Director of the Bureau of Indian Education

Upon taking office, we worked to identify a number of improvements that needed to be made to enhance the delivery of our education services. We realized immediately that it was imperative to bring stability and leadership to the BIE, which is why we worked together with Indian Country to select a new Director for the Bureau of Indian Education.

I am happy to report that, after a very lengthy process, Mr. Keith Moore was selected to become the new Director for the BIE and will begin his duties on June 1, 2010.

Mr. Moore most recently held the position of Chief Diversity Officer at the University of South Dakota. He has also served as the Indian Education Director for the State of South Dakota. Mr. Moore graduated in 1990 from Northern State University in Aberdeen, South Dakota with a Bachelor of Science degree in Health and Physical Education/Social Sciences, and he received a Masters degree in Educational Administration from South Dakota State University—Brookings in 2002. He also holds a Governor Rounds' South Dakota Leadership Development Program Masters-Level Certification and he received a Specialist Degree in Educational Leadership from Montana State University—Bozeman in 2009.

Mr. Moore will be responsible for the line direction and management of all education functions, including the formation of policies and procedures, the supervision of all program activities and the approval of the expenditure of funds appropriated for education functions. Secretary Salazar and I will be looking to Mr. Moore to help carry forward the initiatives at the BIE that help improve the quality of education for our Indian Youth.

Meeting our Challenges

A. Office of Inspector General Report

As I indicated above, we are well aware of the challenges we face in Indian Country, and we are eager to tackle those challenges head-on. This is why, when the Bureau received a report by the Office of the Inspector General (OIG) highlighting concerns about school violence at BIE-funded schools across our nation, I embraced these recommendations and sought to make changes. The February 2010 OIG Report made four recommendations to address the need to improve safety for our students and our teachers at BIE facilities. We've taken immediate steps to implement those recommendations, and to improve the overall security climate at our learning institutions.

First, the BIE is providing—to both BIE staff and tribal education staff—training in such areas as: anger management; bullying prevention; suicide prevention; drug abuse resistance; emergency preparedness; and, continuity of operations. The BIE hosted the National Safe and Secure Schools Conference in Dallas, Texas, which provided participants from our funded schools with training and resources on a number of these, and other, issues. This effort was only a beginning; the BIE has also provided other training such as:

- 10 research-based Bullying and Suicide Prevention training sessions for 450 participants from 183 schools and dorms.
- 4 Native Hope Suicide Prevention trainings.
- Annual training at its Summer Institutes to address school safety issues.

In addition to conventional training, BIE has sought to implement innovative solutions with its Positive Best Behavior Supports Project (Project). The Project is an evidence-based discipline program which provides school-wide approaches to reducing the number of instances of anti-social or violent behavior, and supports positive behavioral changes. The BIE is currently providing Project training to staff at schools across Indian Country. Since January 2009, 227 individuals from 49 schools have received this training. Our trainers have visited 23 sites to provide technical assistance and perform 84 evaluation assessments.

BIE staff are also currently engaged in a federal agency collaborative working group to coordinate and improve bullying prevention—including the organization of a bullying prevention summit this summer. Materials from the federal Stop Bullying Now campaign have been sent to Indian Health Service area offices.

We are also putting the final touches on internal policies and procedures for Standard Operating Procedures for all BIE-operated schools to address the OIG recommendations, and to address additional areas, such as: a Student Health Service; Prohibiting Drugs, Alcohol, Tobacco and Inhalants; Medication; and Sexual Harassment. We hope to have these policies and procedures in place by early summer.

With respect to the two remaining OIG recommendations, the BIE is working on both in tandem in a phased approach to conduct school visits and develop safety policies specific to each school site. Work began immediately by BIE with Phase 1 of the 3-phase plan to be concluded for the first 20 schools by October 1, 2010. To date, 18 schools have been visited. Phase 2 will target 20 more schools with a target completion date of May 1, 2011; and Phase 3 will target the remaining 143 schools to be completed by May 1, 2012.

B. BIA Safety Program

Since 2002, the condition of federally funded Indian schools has improved dramatically. Over $2.2 billion in construction and repair and maintenance funds have been devoted to reducing the number of schools in poor condition as determined by the Facilities Condition Index (FCI) by 50 percent. Note that a school is defined as being in poor condition if it has an FCI of over 0.10; however, being in "poor condition" does not necessarily imply that critical health and safety issues are present. Yet we recognize that more must be done.

The BIA's safety program addresses life safety deficiencies first and foremost. Life safety deficiencies are considered to be work that needs to be completed as a result of safety inspection reports. This is to ensure that those most critical situations are addressed immediately. Indian Affairs has ensured that these inspections continue by hiring contractors to conduct the inspections when necessary. Projects are prioritized through this process by safety code designation, such as life safety code, EPA requirements, and ADA requirements. Funds from the Bureau's Minor Improvement and Repair Program, commonly referred to as MI&R, are used for the abatement of those identified critical deficiencies costing less than $2,500. The Education MI&R program for FY 2010 is funded at $7.6 million, and other relevant line items such as Condition Assessment, Emergency Repair, and Environmental Projects provide an additional $8.1 million for similar work.

Conclusion

In my prior response to this Committee on February 25, 2010, when asked about our estimated school construction backlog, I stated that we have an estimated school construction need of $1.3 billion.

This is the estimated cost to bring the 63 schools remaining in poor condition (after all currently available funding is used) to an acceptable level. In some instances, this figure includes more than simply fixing the deferred maintenance items. For example, if a school has a number of leaks in the roof, in the long run it will be more economical to replace the entire roof rather than continue to fix leaks year after year. Therefore, the cost to replace the entire roof in included in the figure above, rather than the cost to repair all the separate leaks. Likewise, it might also be more economical to replace an entire building or school rather than to repair a number of deferred maintenance projects. If this is the case, the cost to replace the building is included above. It is important to note that the cost to simply repair the deferred maintenance at each of these schools on a project by project basis is much less than this $1.3 billion. However, we cannot simply use the estimated deferred maintenance cost as a basis for what the true cost will be to bring a school into acceptable condition.

The challenges we face were not created overnight, and we do not expect that they will be solved in such a short time. We are working hard to coordinate our efforts with other federal agencies, and tribes, to ensure that we can maximize our impact.

We hope that by collaborating with our sister agencies and Indian Country leaders, we can develop and implement new solutions to improve the conditions for our children. We know that we face a daunting task in providing adequate and safe school facilities, and we will continue to do the best we can to address school safety problems.

We look forward to working with this Committee to ensure that American Indian students have a safe and secure learning environment. Thank you for the opportunity to address this issue and I will be pleased to respond to any questions the Committee may have.

The CHAIRMAN. Mr. Secretary, thank you very much.
Ms. Kendall, you may proceed.

STATEMENT OF MARY L. KENDALL, ACTING INSPECTOR GENERAL, U.S. DEPARTMENT OF THE INTERIOR

Ms. KENDALL. Good morning, Mr. Chairman and Members of the Committee. Thank you for the opportunity to testify this morning about school safety in Bureau of Indian Education-funded schools.

As you know, in February of this year, the Office of Inspector General issued an evaluation of school violence prevention measures. We conducted this review to determine the quality of school safety measures in preventing violence against both students and staff from internal and external threats.

Overall, our evaluation revealed many indicators of potential violence, insufficient school policies aimed at preventing violence, and substantial deficiencies in preventive and emergency safety procedures. As a result, many schools are dangerous unprepared to prevent violence and ensure the safety of students and staff.

Perhaps one of the most critical methods of deterring on-campus violence lies in the overall awareness, understanding and ability to detect indicators of violence by school staff and administrators. In May of 2002, the U.S. Secret Service issued a report analyzing 37 school-based attacks and found that most attackers displayed indicators of violence in advance of an incident.

We learned, however, that training in basic violence prevention such as anger management, bully prevention and gang awareness had not been provided at many of the schools we visited. Additionally, staff members at some schools stated that they were not trained on how to recognize gang indicators.

Tracking violence and violent trends within Indian schools is particularly problematic because no comprehensive reporting or tracking system exists. Because Indian communities suffer from high violent crime rates, maintaining a secure campus is as important as keeping weapons off campus.

We identified an array of physical security deficiencies such as security fencing, camera surveillance systems, visitor procedures and security guards. More than 80 percent of the schools we visited did not have adequate fencing, allowing for the potential of unauthorized individuals to enter the campuses. At White Shield school in rural North Dakota, for example, there is no fencing, nor a security guard.

Almost all the schools had operable surveillance cameras, but many of the systems had flaws. Most schools, for instance, did not operate their systems in real time, missing the opportunity for using this valuable tool to prevent or defuse incidents of violence. Instead, the cameras were used to review past footage and identify the instigators of suspicious activities or violence.

We also found that not every school we visited required visitors to sign in or show identification. More than half did not require visitors to wear identifying badges. At one school, we purposely bypassed the designated visitor entrance, wandered the school grounds, and were able to approach several classrooms without being stopped or questions by staff.

The presence of gang indicators is in almost half of the schools we visited. Gang letters and figures were scrawled on the exterior walls, bathroom stalls, and inside dormitories. One official at a school in Arizona estimated that 75 percent of the school's students

were in gangs. Officials at a school near Seattle, Washington said that community gang activity had led to the death of four or five former students.

Many schools acknowledge the need to be diligent in recognizing and eliminating gang indicators on campus and have done so using a variety of available gang prevention programs, including an in-class curriculum taught by law enforcement officers and aimed at preventing school delinquency, violence and gang involvement.

Finally, most of these schools are simply not prepared for an emergency. We reviewed emergency plans at almost all schools visited and requested that each school run an emergency drill according to plan. We noted numerous deficiencies in schools' abilities to run the drills due to high staff turnover, ineffective intercom systems, and inadequate classroom security. Some of the lock-down drill we observed revealed that classroom doors could only be locked from the outside. As a result, staff needed to go outdoors to lock the doors with keys, exposing staff and students to potential danger.

These are some of the issues we uncovered during our visits to schools throughout Indian Country.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the Committee might have.

[The prepared statement of Ms. Kendall follows:]

PREPARED STATEMENT OF MARY L. KENDALL, ACTING INSPECTOR GENERAL, U.S. DEPARTMENT OF THE INTERIOR

Good morning, Mr. Chairman and members of the Committee. Thank you for the opportunity to testify today about school safety in Bureau of Indian Education (BIE) funded schools. As you know, in February of this year, the Office of Inspector General issued an evaluation of school violence prevention measures. We conducted this review to determine the quality of school safety measures in preventing violence against both students and staff, from both internal and external threats.

Overall, our evaluation revealed many indicators of potential violence, deficiencies in school policies aimed at preventing violence, and substantial deficiencies in preventative and emergency safety procedures. As a result, many schools are dangerously unprepared to prevent violence and ensure the safety of students and staff.

In March of 2005, a 16-year-old student shot and killed himself and seven others at Red Lake High School, a public school on the Red Lake Indian reservation, indicating that school violence also threatens Indian Country.

Perhaps one of the most critical methods of deterring on-campus violence lies in the overall awareness, understanding and ability to detect indicators of violence by school staff and administrators. In May of 2002, the U.S. Secret Service issued a report analyzing 37 school-based attacks, and found that most attackers display indicators of violence in advance of an incident. The Red Lake shooter was known to have created animation depicting extremely violent acts of death and elaborate drawings of people being shot or hanged.

During our visit to Chemawa Indian School in Oregon, we saw similarly violent drawings inside a student's dormitory room. A portion of one wall was covered with depictions of a beheading, stabbing, and a body hanging from a tree. Chemawa school officials were unaware of the violent depictions until we brought this to their attention. A school official said the student should have been referred for counseling, and that dormitory checks were not being adequately performed or the artwork would already have been removed.

Indicators of violence, such as the Chemawa graphic drawings, are reminders that deadly acts of violence can strike even seemingly peaceful schools. Teachers, administrators and other staff should be trained to understand and address all indicators of violence. We found, however, that training in basic violence prevention such as anger management, bully prevention, and gang awareness was not provided at many of the schools we visited. Additionally, staff members at some schools stated they were not trained on how to recognize gang indicators.

Tracking violence and/or violent trends within Indian schools is particularly problematic because no functional, comprehensive reporting or tracking system exists. While we found few statistics on violence indicators at Indian schools, we found a wealth of supporting anecdotal evidence during our visits. For example, we found confiscated weapons, signs of gang activity, and substance abuse.

Weapons end up on campuses as a result of numerous inadequate physical security features. For example, almost all of Sherman Indian School's 360 students live on campus, and many take air transportation to get there. School officials said that they rely on airport security to find dangerous items in students' luggage and do not conduct contraband searches upon their arrival. Airport security, however, allows items in checked baggage that the school would not want on campus. Only one of the schools we visited used a walk-through metal detector.

Given the fact that Indian communities suffer from high violent crime rates, maintaining a secure campus is as important as keeping weapons off campus. We identified an array of physical security deficiencies in areas such as security fencing, camera surveillance systems, visitor procedures, and security guards.

More than 80 percent of the schools we visited did not have adequate fencing, allowing for the potential of unauthorized individuals to enter the campuses. At White Shield School in rural North Dakota, there is no fencing or even a security guard. In March of 2008, the school locked down for a possible student with a gun; police took 30 minutes to arrive after they were called. Fortunately, the situation was resolved peacefully.

Almost all the schools had operable surveillance cameras, but many of the systems had flaws. Most schools, for instance, did not operate their systems in real time, missing out on the possibility of using this valuable tool to prevent or diffuse incidents of violence. Instead, the cameras were only used to review past footage and identify the instigators of suspicious activities or violence.

We found that every school we visited had a designated visitor entrance. But a large number of schools did not require visitors to sign in or show identification. More than half did not require visitors to wear identifying badges. At one school, we purposely bypassed the designated visitor entrance, wandered the school grounds, and were able to approach several classrooms without being stopped or questioned by staff.

The presence of gang indicators in Indian schools we visited was undeniable. Gang letters and figures were scrawled on the exterior walls, bathroom stalls, and inside the dormitories of almost half of the schools we visited. One official at a school in Arizona estimated that 75 percent of the school's students were in gangs. Other schools expressed concern over students whose parents were active gang members. School officials at a school near Seattle, Washington said that community gang activity had led to the deaths of four or five former students and the incarceration of several more for gang-related drive-by shootings.

Many schools acknowledged the need to be diligent in recognizing and eliminating gang indicators on campus, and have done so using a variety of available gang prevention programs, such as The GREAT Program, Gang Resistance Education and Training, an in-class curriculum taught by a law enforcement officers aimed at preventing school delinquency, violence, and gang involvement.

Drugs and alcohol also cause significant problems in Indian Country. Alcohol abuse is the "single biggest challenge" facing Indian communities and police departments, according to a 2001 National Institute of Justice report. Child abuse, domestic violence, assault, driving under the influence, sale of alcohol to minors, and neglect tend to be byproducts of substance abuse.

Site visits revealed that even though drug and alcohol abuse may not run rampant inside school walls, they are community issues that affect students at school. Local law enforcement and school officials confirmed that drug dealers live within a half mile of three different schools we visited. One school official told us that students could easily access drugs and acknowledged many entry points for drugs to reach campus.

Finally, most of these schools are simply not prepared for an emergency. We reviewed emergency plans at almost all schools visited. We requested that each school run the emergency drills according to plan to identify any weaknesses. We noted numerous deficiencies in schools' abilities to run the drills due to high staff turnover, ineffective intercom systems, and inadequate classroom security. Lock-down drills we observed revealed that most schools had classroom doors that could only be locked from the outside. As a result, staff needed to go outside to lock doors with keys, exposing staff and students to potential danger.

These are some of the issues we uncovered in our visits to schools throughout Indian Country. Our February report on school violence was preceded by a report in

August 2008 addressing preparedness to address violence in BIE operated schools. Our findings were not surprisingly similar.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions the Committee might have. Thank you for the opportunity to appear here today.

The CHAIRMAN. Ms. Kendall, thank you very much.

To my colleagues, I would say Senator Franken indicated he has to leave nearly immediately and wants to ask one question.

Senator FRANKEN. I apologize.

The CHAIRMAN. With the indulgence of our colleagues, let me recognize you.

Senator FRANKEN. Thank you, Mr. Chairman, and thank you to my colleagues for your indulgence.

Mr. Echo Hawk, the Circle of Life School on the White Earth Reservation in Minnesota is one of the few fortunate BIE schools that will be rebuilt in the near future with groundbreaking slated for June of this year. In talking to tribe, it seems that the process for the school replacement took much longer than it should have. It was years and years even after the Federal funding was secured.

Much of this was due to a lack of responsiveness from BIA. In White Earth's contact with the BIA for the school construction, the agency has 21 days to respond to each of the tribe's submitted plans for construction of the school, yet there have been many instances when the BIA has taken over two months to reply and in other cases the tribe received no comment or response at all.

What are you doing to address lack of responsiveness of your regional BIA offices?

Mr. ECHO HAWK. Senator Franken, I think you are aware that I have been on the job only 11 months, but I can assure you, and I think I am speaking for Secretary Salazar as well, that we take these issues very seriously. I like to know when there are problems of responsiveness because we will address those issues.

We have recently added a new Bureau of Indian Affairs Director, and I just commented we have a new Bureau of Indian Education Director starting on June 1. I look to those individuals to make sure that we are responding in a timely manner.

Senator FRANKEN. Thank you and I hope you stay on top of that.

I have been told that advocates for American Indian students have reached out to the BIA to ask what the Bureau planned to do to respond to recommendations in the OIG's report on school violence. While the BIA's official written response to the OIG report was due on March 3, the advocates were unable to obtain the written response or any concrete answers.

I appreciate that you are beginning to share the answers with us now, but it shouldn't take a hearing to obtain them. I am noting a pattern here. It seems like every time we want information that should be readily available to the public, we have to turn up the heat and hold a hearing. For example, the BIA finally agreed to post its facility condition index list only after my staff made it clear that I planned to ask for it to be made publicly available at the hearing we recently held on school construction. This pattern to me is unacceptable.

How will the BIA ensure that the actions it will take in response to the OIG's report will be transparent to the public? And what can

the BIA do to improve the transparency of its operations more generally?

Mr. ECHO HAWK. Senator Franken, I believe in transparency and I think this issue came up at a prior time that I testified. And I can just assure Committee Members that I will press to make sure that we disclose the things that we should be disclosing in a timely manner.

I just invite the Committee Members to call me directly if you have constituents that are contacting you with concerns about timeliness. I can assure you that I will respond to that.

Senator FRANKEN. We will do that.

You say in your written testimony, "We are working hard to deploy our resources in the most effective and efficient manner possible to improve BIE facilities." I want to address the issue of costs of replacing BIA schools. BIA's Director of Facilities Jack Rever, who is here today, told my staff a while back that it cost approximately $30 million to $50 million to replace a BIE school. And there is only $52.8 million in the President's budget for Indian school construction for this entire year. So we have an enormous cost per school and barely any money in the budget to fund it.

Mr. Secretary, is the cost of replacing a BIE school comparable for the costs associated with schools in non-tribal areas? And if there is a difference, what accounts for it?

Mr. ECHO HAWK. Senator Franken, I do not personally know the answer to your question about whether or not there are comparable costs. Generally, the schools that we build are in isolated areas and I assume that would mean that it would be more difficult and costly to construct them. But in terms of the structures that we are building, I would have to defer to Jack Rever to see if he has any comment. If the Committee would like him to respond, I would be glad to have him do so.

Senator FRANKEN. I would love to know. I would love to have some analysis of this because it seems like the schools are awfully expensive to build.

Mr. ECHO HAWK. Senator Franken, we can provide an answer to that specific question.

Senator FRANKEN. Thank you. I appreciate that, Mr. Secretary.

Thank you, Mr. Chairman. I apologize to everyone that I have to leave to another hearing. Thank you.

The CHAIRMAN. Thank you, Senator Franken.

Senator Tester?

Senator TESTER. Thank you, Mr. Chairman.

I want to once again thank the panelists for being here.

The first question, Larry, this hearing is about BIE schools, but overall in Indian Country is there a level of violence in Indian schools that is unacceptable, from your perspective?

Mr. ECHO HAWK. Senator Tester, yes.

Senator TESTER. Okay. I don't know if you have had the ability to make a determination on how many schools it is that way. Is it in every school that is in Indian Country? Or is it 50 percent of them, 75 percent of them? And I know there are a lot of factors in there, but do you have any idea on how many schools were violent?

And Mary, if you know this, it would be good to have you asked. But I am just curious what percentage of schools in Indian Country where violence is a problem.

Mr. ECHO HAWK. Senator Tester, the BIE schools are located in 23 different States, but I think generally we all recognize that crime in Indian Country is a problem in all regions.

Senator TESTER. Okay.

Mary, the investigation that you did, the work that you have done, did you see violence across the board in every school you visited?

Ms. KENDALL. I would say yes. There were indicators of violence at all schools. The question of actual violence, we haven't had a serious incident, I believe, in Indian schools since the Red Lake incident. But the concern we had were the indicators and the preparedness of staff and administration on-site.

Senator TESTER. Okay.

Larry, back to you. You had mentioned some things that you have done in Indian Country more globally when it comes to violence, and I appreciate those efforts. Specifically, you talked about $8.5 million that is being utilized for safe and secure programs, security cameras, teacher training, and environmental hazards, those kind of things.

You are in a position of reasonable authority here. What do you think is the key, the one or two or three keys, not only in BIE schools, but all schools in Indian Country, that could do to help curb the violence?

Mr. ECHO HAWK. Senator Tester, I think the things that we are doing right now in response to the I.G. report to provide training, as an example, to make sure that our administrators and educators understand the things that they should recognize that are a precursor to some violent events.

There are a number of things that we have to deal with when we talk about violence and other threats. But let me just comment that the reason we have high crime areas in virtually every part of Indian Country has to do with healthy families. I have given a couple of speeches recently where I said we are ratcheting up our criminal law enforcement. We are going to reduce crime levels through tough law enforcement. And I think we have to do that.

But I have also said at the end of those speeches, we are not going to arrest ourselves out of the problem; that we have to create healthy families. And so I personally don't think we are probably giving enough attention to that area.

Senator TESTER. I don't want to take us off this topic area, but you bring up a very good point and I agree with you. We can't take care of it at the back end. We need to start taking care of it at the front end.

Can you tell me what the BIA is doing to help solve or at least make inroads into the problem of healthy families?

Mr. ECHO HAWK. Senator Tester, I would say that we are not doing enough, but I think to create healthy families, that means you need a provider in the home. And when you have Indian communities that have 80 percent to 85 percent unemployment, we have to spark the economies. We also have to have social services available to be able to help lift those families.

Senator TESTER. Okay. I would tend to agree. This is such a problem, it is hard to get your arms around it because there are so many things that impact it, whether it is healthy families, adequate law enforcement, schools that you can be proud of. And when you talk about staff training, I am a former teacher myself. If I have a choice between going to a school that is safe and clean versus a school that is potentially unsafe and unclean, I know what decision I am going to make, plus the family impact.

So I will just close by saying this, and very much respect your abilities and your leadership in the Department, but we have limited dollars and we are really going to have to focus on things that are going to make a difference. And your leadership in that Department is going to make a big difference as the budget cycle rolls on.

I would appreciate as we go forth with all the dollars for Indian Country that you make sure that the emphasis is where it needs to be to do the most good. That is kind of a no-brainer, but the fact is that I think you are spot-on when you say we can't arrest our way out of this situation.

Thank you.

The CHAIRMAN. Senator Tester, thank you very much.

Senator Udall?

Senator UDALL. Thank you, Chairman Dorgan.

Secretary Echo Hawk, I first want to applaud you for the initiatives you talked about that you are carrying out in order to try to get on top of school safety and school violence and all of the problems that plague the BIA schools.

I think one of the keys is, as you said, mobilizing these other resources around the Federal Government, the Department of Justice and Health and Human Services, and getting them involved in the problem. That is a very positive thing to see the Department of Justice take on the issue that you outlined here a little bit earlier.

Let me ask you the question, when you look at the resources that are needed to do the job in terms of getting the schools safe, and then the lack of resources. Obviously, you are using what you have right now. How do you determine in the overall picture what are the most serious violations at these schools? Where are the kids in the most danger? And then how do you tackle those?

It seems like you have a situation where you have significant deterioration overall, but then identifying the schools where there are the worst problems and then trying to tackle those. What do you bring to this effort to do that?

Mr. ECHO HAWK. Senator Udall, are you speaking about the physical structures?

Senator UDALL. The structures, the safety violations, the code violations, all of the things that have come out in the Inspector General reports and other OIG reports and things like that.

Mr. ECHO HAWK. I understand your question to be how do we identify the really critical areas.

Senator UDALL. Yes, you have so much to do and it is so big, how do you get focused in to pick the things that may be a disaster tomorrow, because you can't do them all? That is my question. Do you have somebody on top of that, looking at that and trying to identify preventing the disasters of tomorrow?

Mr. ECHO HAWK. Well, I think it has already been testified to that the kind of problems that we are talking about exist in virtually all regions, all schools. To prioritize where we put that, there has got to be some attention given to that. I don't know if either Jack Rever, he is the one that would probably know most about that, or Bart Stevens would have any comment about what specifically they are doing.

In terms of my knowledge base, I know that the problems are pervasive and we are trying to deal with them in all schools.

Senator UDALL. Yes, yes. I know you are trying to deal with all the problems, it is just that if a school is going to fall down and kill 20 kids or 100 kids or something like that tomorrow, that is the one I would want you to be on top of, rather than the other things that are going to happen down the line. That is the kind of urgency that I am talking about in my questioning here.

Mr. REVER. Senator, I am Jack Rever, the Director of Facilities, Environmental Culture Resources and Safety, and run the evaluation program for the school, measuring the deficiencies, measuring the risk. And so it is a risk management issue that you have identified.

We have a multitude of inspection processes that we go through. We have the annual workplace safety inspections which is OSHA-based reviews, and that is the electrical outlets and whether the operating equipment in the shops have proper guards on them to make sure the kids or the teachers don't get hurt.

We also have triennial inspections by engineers and engineering technicians to go through and evaluate each building that we have, particularly the schools. And in addition, of course, the primary responsible is to the people on-site, the facility managers. They identify these deficiencies to us. We then go through a risk assessment.

There are two contexts for all risk assessment. One is the likelihood of occurrence of whatever might be resulting from that deficiency, and then the consequences of that occurrence happening. Then we rate those in a category of one through five. One is if it is an imminent problem, an emergency. Regardless of cost, it is going to be corrected or countered within eight hours. That is the requirement and we are very successful. Those never show up on any reports because a phone call to my staff in Albuquerque to identify that particular problem marshals the resources and the dollars to solve it.

A good example, and this has happened to us. We have had a school in which a structural engineer published a report that came to my desk within hours that said there was a structural problem. I ordered the school closed and the students evacuated until we could get a structural engineering firm in there to do a full evaluation. That obviously is number one.

We do not operate schools that represent an imminent danger to students, faculty or visitors. That is how we prioritize our work. I wish we had sufficient funds to answer every deficiency, but we prioritize the most defficient, most risk to the students and take care of it immediately. And we work our way down to the extent that our fiscal capability lets us do that. When I say "fiscal," I mean dollars that let us do that.

That is how we establish priorities for immediate response and long-term response for our projects.

Senator UDALL. That is good to hear. That is good to hear.

Chairman Dorgan, I know I have run over a little bit and greatly appreciate your courtesies on that. Thank you.

The CHAIRMAN. Senator Udall, thank you very much.

Senator Johnson?

STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Thank you, Mr. Chairman

And welcome to the Committee Mr. Echo Hawk. I applaud your choice of BIE Director, Mr. Keith Moore, who is a fellow South Dakotan and is currently at the University of South Dakota. USD's loss is BIE's gain.

Indian students in South Dakota often have to travel on dangerous roads and in dangerous weather conditions. Does BIE and BIA have a plan for ensuring student safety while traveling to and from schools?

Mr. ECHO HAWK. Senator, I am well aware of the problems that exist out there on those roadways. As I have traveled in Indian Country, tribal leaders bring that to my attention on a regular basis and talk about their road and bridge problems.

We are working with the Department of Transportation to address those needs. There was a substantial amount of ARRA funding that came in that allowed us to take care of part of the problems, but there are still many needs that exist out there.

We are presently focusing on the equity formula to make sure that the funds that we do have available are distributed in an equitable way and we have heard a lot of complaints by tribal leadership that that is not an equitable process right now and we are looking into that.

Senator JOHNSON. There are four regional offices without safety officers. What actions are being taken to fill these personnel gaps?

Mr. ECHO HAWK. Senator, I am aware that we have some of the regional offices that do not have a safety officer, and we are pressing to make sure that those positions are filled, and that the inspections that we are supposed to be doing are actually done. I have seen information that shows that that is not happening, but that has been brought to my attention and we are focusing on that now.

Senator JOHNSON. Unsafe school environments also greatly contribute to personnel turnover. What efforts are being made to improve retention of teachers and administrators?

Mr. ECHO HAWK. That is a good question and a challenging question. I think I am going to defer that question to Bart Stevens, who is the Acting Director, to comment on specific things that are done to retain and recruit teachers.

Mr. STEVENS. Thank you.

As far as retention and recruitment efforts go within the Bureau of Indian Education, we recently hired a recruiter who is forming partnerships with local universities and colleges in Indian Country to actively recruit administrators and teachers.

As far as retention of Federal teachers, which are one-third of our BIE-operated schools, there are incentives in place, differential salary increases to retain teachers in those more isolated locations, those hard to fill positions.

As far as the two-thirds of our schools which are tribally controlled grant schools, we have no authority on the turnover or not of those schools that are tribally operated, but that is what we are doing for our Federal programs that are BIE-controlled.

Senator JOHNSON. Ms. Kendall, of the 22 Indian schools assessed by OIG, were any schools surveyed in South Dakota? If so, which ones?

Ms. KENDALL. Senator Johnson, off the top of my head, I don't recall which ones. I would be happy to provide you that information separately.

Senator JOHNSON. Ms. Kendall, while the BIE has made progress on deficiencies identified in the report, many schools in South Dakota experience dangerous conditions and violent atmospheres. Will there be another evaluation made in the future?

Ms. KENDALL. We often will follow up a report with what we call a validation effort to make sure that the things that BIE in this case have said that they will do in response to our reports have in fact been done.

We want to give them time enough to respond to the report and in this case, they have laid out a plan that will be finalized by May, 2012. And so it would be at that point that we would probably go out and take another look and validate their efforts.

Senator JOHNSON. In May, 2012?

Ms. KENDALL. Yes, sir.

Senator JOHNSON. Thank you.

The CHAIRMAN. Senator Johnson, thank you very much.

Let me ask a couple of questions, then we have a second panel as well.

Mr. Echo Hawk, my understanding is that current information tells us that Department safety officers have identified 85,000 safety deficiencies at the school system that you run, we run. And only 25,000 have been corrected. So we have two-thirds of safety deficiencies on a list, apparently, that exists at the BIA that are unaddressed.

How do we reconcile that? How do we justify that? What do we tell people, families, taxpayers? This is our school system. And I understand that any investigation would show deficiencies, but what I don't understand is this. If we have reports that show there are 85,000 safety deficiencies and only one-third have been corrected, what is the deal?

Mr. ECHO HAWK. Senator Dorgan, obviously that is a problem when you have any deficiencies in schools, and to be able to only address a third of them is cause for concern. But we are addressing the priority deficiencies, as Mr. Rever described. We have that process in place to identify the most serious, and we are addressing those. But part of the problem is just resources, not having the resources to be able to address every single one of them.

The CHAIRMAN. But let me ask a question, then. My colleague, Senator Udall, had a reporter go do a look at a school and did a couple of reports that I think are embarrassing to the Federal Gov-

ernment. It is our school system. We are responsible for what happens there.

On the Pine Hill School, you have 275 kids as young as six years old. They don't have a fire alarm. And so if there were a fire this afternoon in the library, elementary school, middle school and high school maintenance shops, new dormitories, none of those people in those areas would hear a fire alarm.

Now, is that an urgency or is that one that somebody would say comes under your eight-hour limit? If you don't have a fire alarm, send out somebody to fix that fire alarm because if there is a fire, kids are going to die?

So what falls through the cracks here?

Mr. ECHO HAWK. Senator Dorgan, I think on that particular report, I am going to ask Jack Rever to respond because he sent a team out there to those very same schools to address those problems.

The CHAIRMAN. All right.

Mr. REVER. Mr. Chairman, thank you. It is true that the Pine Hill School fire alarm system does not work. Our procedures are very specific and this happens throughout the Country, every fire alarm system. Many of them are old and they fail, parts of them fail, and they go into failure mode.

It is an absolute requirement within our system that a fire watch be posted every hour that that building is occupied.

The CHAIRMAN. A what?

Mr. REVER. Fire watch, an individual who has the responsibility to make sure that there is somebody out wandering the halls and looking for potential fire dangers and sounding an alarm if necessary.

The CHAIRMAN. Sounding what alarm if the alarm is dead?

Mr. REVER. There are a variety of ways to do that. You can use hand-held warning devices or you can use whistles. You can do P.A. system announcements. You can use runners. And those are all required under our regulations.

The CHAIRMAN. I understand, but you are not saying it is okay if the fire alarm doesn't work because there are alternative methods.

Mr. REVER. Absolutely not, sir, because fire alarms in the condition of the one in Pine Hill are so deteriorated that it has to be replaced in kind, and we have a project underway right now out of the Recovery Act funds that is going to replace that fire alarm system.

So we are aware of it. It is on our priority list. We have gone through the risk analysis and we have provided over $300,000 just for the fire alarm system itself at Pine Hill.

The CHAIRMAN. Well, the school you run at Standing Rock in North Dakota has no fire alarms, no sprinkler system. Does that work under your eight-hour rule?

Mr. REVER. No, sir, it does not, but that is on the list also.

The CHAIRMAN. But my point is, look, you guys are not coming in here saying look, by God, we need more money because kids will die if we don't do this. If there is a fire in Standing Rock today, and in the aftermath of that they take a look at what went on there, and we know that there is no fire alarm capability and no

sprinkler system, we knew that and we said it is okay for kids to go to school because we know that and we will fix it later.

That is not acceptable. I am just using the fire alarm in New Mexico and North Dakota as an example. If you owned an apartment building and your fire alarm didn't work; if you as an owner weren't apoplectic about that, shame on you. You wouldn't dare have the liability of owning an apartment building and say it is okay if my fire alarm doesn't work.

Yet we own a school and we have fire alarms all over the Country that don't work and we say, well, we will have somebody with a whistle in the hallway. That is not acceptable to me.

Look, I understand that you can find safety violations everywhere in every school system. My point is, Mr. Echo Hawk, if you have 85,000 and only one-third are addressed and two-thirds are not, and they include things like basic safety issues, real safety issues that can kill kids.

Let me just ask another question because I think in many ways the folks at New Mexico have done us a service. I don't know these people that did it, but the journalists that did this said there are cracks in load-bearing walls in the school gym. The BIA did direct Alamo to hire a structural engineer to evaluate the gym walls. They have not provided the money to pay for the evaluation so no one, not the Alamo School, the BIA or the students or the faculty who use the gym, know whether it is safe or not.

I don't understand. In this school as well, the fire alarm system hasn't worked properly in years. They have been asking for upgrades for eight years. I have been in schools where buildings were condemned and kids were sitting in classrooms packed 30 in a room, one inch apart. Are kids like that going to get the same education as a kid in a suburb going into a reasonably new school with 18 kids in the classroom? Of course they are not. They don't have the same chance. They are just not going to get the same education.

What bothers me is we run two school systems in this Country. We run school systems for the military on our military bases and we do a pretty job of it, frankly. And we run schools for Indian kids through the BIA. And frankly, GAO and other reports have shown that the amount of disrepair in that school system is unacceptable.

Mr. Echo Hawk, I would hope you would risk your job coming here and saying, you know what? The budget that has been requested is radically insufficient. We have had people do that and get fired, because I understand the responsibility of witnesses to support the President's budget. But we are so far short of the money necessary to protect these kids in these school systems, we just have to do better.

What I am going to do is I am going to ask the Inspector General, and by the way, we have had far too little attention from the Inspector General's Office on Indian issues, let me say. We have taken a look at the activities in the last eight and 10 years of what has been done over in the Interior Department with respect to BIA issues, and I would like to see much more activity on Indian issues. I will be having a chance to visit with the Inspector General.

We appreciate your work. We just want more attention to things that I think are urgent. I am going to be asking both the GAO and

the Inspector General to take a look at this, but I would also like to ask Mr. Echo Hawk to have the BIA submit to us a report and tell us if there are 85,000 safety violations out there that have been identified, two-thirds of them that have not been corrected, what is the criteria by which you will decide when to correct things and what things to correct if you are in fact short of money, as you say? And I believe you are short of money.

I think this hearing tells me that there are kids whose lives are in danger because we have safety violations that we don't judge to be threats to life and limb. That is not acceptable to me. You might say, well, it is not acceptable to me either, but give me the money. I say, yes, well, you work for an Administration that submits a budget.

So let's try to work through this and figure out what our responsibilities are. I appreciate your coming here, and I didn't mean to lecture you. I guess I must have meant to because I did, but it bothers me a lot because I have been to a lot of Indian schools. And frankly, a lot of these little kids that walk through these doors are not getting the same opportunity in life as other kids. And because we run these schools, I want these kids that walk through these doors to think and for us to think we are sending them through the doorways to schools that are some of the best in the world. We are not. They are some of the worst in the Country in some cases.

I don't want to tarnish all Indian schools because some do a great job and some are up to snuff, but we are so far short of the work that needs to be done so that we are proud of these schools. We still have a lot to do.

So thank you for coming today. We are going to go to the next panel. I want to be in touch with all four of you and continue this discussion because it is very, very important. Thank you very much.

I am going to be offering an amendment on the Floor in just a moment, and I have asked Senator Udall if he would chair for the second panel. I will be back in about 30 minutes.

By the way, Mr. Secretary, if you wanted a parting comment, you are sure welcome to make it. I didn't mean to cut you off. Did you wish to make a parting comment?

Mr. ECHO HAWK. Thank you, Senator Dorgan, just briefly.

Just to follow up to your comment, I did say in my testimony today that the resources were inadequate. We would try to do the best job we could. But I recall that when I appeared before this Committee during my confirmation, I was asked a question about whether or not I would tell what the need is and I said I would. And I will continue to do that. I need to do it more forcefully.

I appreciate your comments today. I am not too worried about losing my job. I didn't come back here to Washington, D.C. to get a step in some direction to another career. I am at the end of my career. I have a secure job waiting for me as a law professor when I leave, and I will try to be energetic and forceful in communicating those messages, because what we are talking about here today is vitally important.

Thank you very much.

The CHAIRMAN. Mr. Secretary, I know you have the same interests at heart that I and Senator Udall do as well. I want you to

succeed in your job. I want you to have more resources with which to do it and to use these skills in a BIA that works well and addresses problem.

Thank you very much for being here.

To our next witnesses, I am going to ask my colleague from New Mexico to introduce you and begin. I will be introducing the amendment on the floor and be back here hopefully before you are completed.

Senator Udall, thank you very much for your courtesy of doing this. If you will introduce the next panel.

Senator UDALL. [Presiding.] Thank you very much.

I see Assistant Secretary Echo Hawk is still here. One of the things, and we will put this in a question in writing, but my staff has given me to look at the total educational construction funding here. You look at fiscal year 2004 through 2010, there are large amounts of money being carried over from year to year, significant amounts of money, millions and millions of dollars.

So I am wondering with all this money being carried over, we should be able to fix a lot of the things that are going on. So it isn't just an issue of additional resources. It is an issue of using the resources that you have from year to year.

I am going to do everything I can, working with Senator Dorgan and the rest of the Committee, to see that we get the message all the way up to the President that he needs to come forward with a budget that is going to take care of these situations when it comes to our school children.

So with that, let me welcome the next panel. We have with us Mr. Quinton Roman Nose, Treasurer, National Indian Education Association, Washington, D.C. We also have Dr. Anthony Fairbanks, who I said some nice introductory comments about earlier, Superintendent, Pueblo of Laguna, Department of Education.

I believe our other witness was unable to make it. Is that correct? So we will go forward with both of you.

Please, Mr. Roman Nose, go ahead.

STATEMENT OF QUINTON ROMAN NOSE, TREASURER, NATIONAL INDIAN EDUCATION ASSOCIATION

Mr. ROMAN NOSE. Chairman Udall, Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association about the shocking disparities in the safety of the Bureau of Indian Education Schools.

Founded in 1970, NIEA is the largest Native American education organization in the Nation, with a membership of over 3,000 American Indian and Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents and students. NIEA is dedicated to promoting native education issues and embraces every opportunity to advocate for the unique educational and culturally related academic needs of native students.

NIEA advocates for the unique educational and culturally related academic needs of native students, working to ensure that the Federal Government upholds its responsibility for the education of native students through the provision of direct educational services and facilities that are safe and structurally sound.

This is incumbent upon the trust relationship of the United States Government with tribal nations. It includes the responsibility of ensuring educational quality and access.

The environment in which instruction and educational services are provided is critical to the achievement of our students and their ability to achieve academically and to be healthy, successful members of their Native American communities. However, appalling disparities exist in the levels of safety, both structural and personal, in the Bureau of Indian Education-funded schools, creating educational environments that are a threat to the emotional and physical well being of Native American students.

In August, 2008, a report issued by the OIG at the Department of Interior entitled "Evaluation of Controls to Prevent Violence at BIE-Operated Education Facilities documented the lack of laws, presidential orders, or directives outlining safety measures for Indian schools. Even more shocking was the fact that grant agreements for Indian schools do not require a plan for addressing and preventing of campus violence.

In a February, 2010 follow-up report from DOI OIG, Evaluation Report: School Violence Prevention, an assessment of safety measures and procedures at 22 Indian Schools revealed many indicators of potential violence and deficiencies in school policies aimed at preventing violence, and substantial deficiencies in preventive and emergency safety procedures, resulting in schools being dangerously unprepared to prevent violence and to ensure the safety of students and staff.

Given these long-term and continuing conditions, native families, communities and tribal governments remain appalled that these concerns remain unaddressed, while the well being of Native American students hangs in the balance. From the experience of our membership in the Native American communities in Indian Country, critical areas needing immediate action include funding to repair structural and equipment deficiencies, appropriate preparation and training of personnel and staff, implementation or development of policies and procedures that impact school safety, and increase in useful collaboration and cooperation among tribal, Federal and local agencies with a role in ensuring student safety and well being.

Funding to correct disparity and dangerous conditions on Indian facilities. First and foremost is the issue of structural deficiencies and lack of funding to address them remains a paramount concern. Of the 4,495 educational buildings in the BIE inventory, half are more than 30 years old and more than 20 percent are older than 50 years; 65 percent of the BIE school administrators report the physical condition of one or more school buildings as inadequate.

Although educational conditions have improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over $500 million and increases annually by $56.5 million. Of the 184 BIE Indian schools, one-third of the Indian schools are in poor condition and in need of either replacement or substantial repair.

In addition, lack of consistent functioning electrical systems, unrepaired gaping holes in security fences, broken or uninstalled

surveillance cameras, and unsecurable doors and windows directly affect the ability of schools to ensure student and staff safety.

In 1997, GAO issued a report, Reported Condition and Costs to Repair Schools Funded by the BIA, that documented an inventory of repair needs for educational facilities totaling $754 million. In 2004, the backlog for construction and repair was reported to have grown to $942 million.

More recently, in March of 2008, the Consensus Building Institute, with the United States Institute of Environmental Conflict Resolution, issued a Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs-Funded Schools Facilities Construction. CBI reported in their findings of the conditions of the schools that security needs and related funding are major concerns for many schools, aging or poor design may lead to a substandard educational environment, and operation and maintenance needs are not matched by operation and maintenance annual funding.

In May of 2007, the OIG, Department of Interior, issued BIA/BIE: Schools In Need of Immediate Action, a flash report that describes the conditions at BIE schools that require immediate action to protect health and safety of students and faculty.

Although the Inspector General visited 13 schools as part of their investigation, four schools were highlighted in the flash report. In the report, the Inspector General cited the deterioration ranging from minor deficiencies such as leaking roofs to severe deficiencies such as classroom walls buckling and separating from their foundation.

In his conclusion, the Inspector General stated that "failure to mitigate these conditions will likely cause injury or death to children and school employees." The flash report describes the alarming and life-threatening situation at BIA schools that the Federal Government has created in its failure to properly maintain the schools. Native children should not have to risk their lives on a daily basis to access the fundamental right to an education.

Testifying at the NIEA-sponsored BIA/BIE regional hearing in the Navajo Nation, Window Rock, Arizona, Hopi Tribal Chairman Benjamin Nuvamsa stated, "Our students are at extremely high risk because of exposure to hazardous materials in our school buildings. Recently, severe reductions in annual appropriations for the building operations, maintenance and repairs, OM&R, program results in the ever-increasing number of projects placed in the Facilities Maintenance Inventory System, FMIS. While waiting for funding, our students and staff are subjected to exposure to hazardous materials. Almost all schools have asbestos and radon issues which put the students and staff at risk."

The purpose of education construction is to permit BIE to provide structurally sound buildings in which native children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically when we fail to provide hem with a proper environment to achieve success. The amount of funding over the past few years has failed to fund tribes at the rate of inflation, once again exacerbating the hardships faced by Native American students.

Further, the funding that has been allocated over the past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair.

The BIA's budget has historically been inadequate to meet the needs of Native Americans and consequently Indian school needs have multiplied. For 2008, the fiscal year funding level was $142.94 million. For fiscal year 2007, the funding level was $204.956 million, and for 2006, the funding level was $206.787 million.

Congress and BIA have sought to justify the decrease over the past few years by stating it wants to finish ongoing projects. However, NIEA has repeatedly heard from several BIE schools who have indicated their shovel ready status.

While the Recovery Act did provide $450 million to be shared among BIA school construction and repairs, detention facilities, roads, and irrigation projects, this funding has provided little headway considering the lengthy list of schools waiting to build and repair their facilities. Therefore, NIEA previously requested a $150.4 million increase from fiscal year 2010 enacted level of $112.994 million for a total of $263.4 million in fiscal year 2011 for the BIA for Indian school construction and repair.

The continued deterioration of facilities on Indian land is not only a Federal responsibility, it has become a liability of the Federal Government. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs if 48,000 Indian students are to be educated in structurally sound schools.

However, in addition to being structurally sound, these schools must also be structurally safe with adequate funding to address school safety through the use of perimeter fending to secure school grounds, surveillance cameras and metal detectors to deter weapons and on-campus crime, and improved locks and other physical security measures.

While structural concerns may be the most visible indicators of school safety, several other areas of critical concern also need to be swiftly and adequately addressed.

As noted in the 2010 evaluation report, the staff in many Indian education facilities are unaware of or unable to implement basic safe plans such as performing lock-downs or school evaluation drills. High staff turnover, including principals and other administrators, results in a lack of institutional knowledge about safety procedures or available resources used to address and defuse potentially violent situations.

In addition, lack of funding and a consistent plan for the training of incoming personnel means that most staff members lack adequate training in areas critical to student well being. Staff need to be trained to recognize and address indicators of potential violence, including gangs and suicide prevention, how to address substance abuse, bullying prevention, and more.

In addition, it is important to have adequate funding to provide hiring and retention of staff who can provide students with counseling and therapeutic interventions, while also helping to train other school staff in appropriate measures for dealing with potential violent situations.

Previous reports about school conditions and safety measures indicate that implementation or enforcement of policies and procedures that would help to ensure students and staff safety are often not implemented or enforced.

For example, dress codes that prevent the wearing of gang-related colors in schools may not be enforced with consistency or consequences. Also, procedures restricting and monitoring visitor access to schools are critical in maintaining a safe school environment.

Senator UDALL. Mr. Roman Nose, could you try to wrap and we will make sure and put your full statement in the record.

Mr. ROMAN NOSE. Okay.

Senator UDALL. We also want to give Dr. Fairbanks time.

Mr. ROMAN NOSE. I apologize. I will go to the conclusion. I am sorry. I didn't look at the time.

I would like to conclude, as an official interviewed in the August 2008 OIG report stated, "It is a matter of when and where, not if, a violent act would happen" in Indian education facilities. It is a collective responsibility to do all that we can to ensure that our children do not have to risk their lives in deteriorating buildings without adequate supports for their well-being and personal safety in order to obtain an education.

NIEA thanks the Committee for its hard work and diligence on behalf of the Native American communities and hopes that elevated Congressional engagement around the issues of Indian school safety will promote and ensure much-needed improvements. With your support, we are hopeful that Indian Country will have the resources, oversight and assistance it needs to create the kind of educational environment that our native children deserve.

Thank you very much.

[The prepared statement of Mr. Roman Nose follows:]

PREPARED STATEMENT OF QUINTON ROMAN NOSE, TREASURER, NATIONAL INDIAN EDUCATION ASSOCIATION

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NIEA advocates for the unique educational and culturally related academic needs of Native students, working to ensure that the Federal Government upholds its responsibility for the education of Native students through the provision of direct educational services and facilities that are safe and structurally sound. This is incumbent upon the trust relationship of the United States government with tribal nations and includes the responsibility of ensuring educational quality and access. The environment in which instruction and educational services are provided is critical to the achievement of our students and their ability to achieve academically and to be healthy, successful members of their communities.

However, appalling disparities exist in the levels of safety, both structural and personal, in Bureau of Indian Education funded schools, creating educational environments that are a threat to the emotional and physical well-being of Native students.

An August 2008 report issued by the Office of the Inspector General (OIG), Department of the Interior (DOI) titled *Evaluation of Controls to Prevent Violence at*

Bureau of Indian Education Operated Education Facilities documented the lack of "laws, presidential orders, or directives outlining safety measures for Indian Schools."[1] Even more shocking was the fact that grant agreements for Indian schools do not require a plan for addressing and preventing of campus violence.

In a February 2010 follow up report from the DOI OIG, *Evaluation Report: School Violence Prevention,* an assessment of safety measures and procedures at 22 Indian schools "revealed many indicators of potential violence, deficiencies in school policies aimed at preventing violence, and substantial deficiencies in preventative and emergency safety procedures resulting in schools being dangerously unprepared to prevent violence and ensure the safety of students and staff."[2]

Given these long term and continuing conditions, Native families, communities, and tribal governments remain appalled that these concerns remain unaddressed while the well-being of Native students hangs in the balance. From the experiences of our membership and Native communities in Indian Country, critical areas needing immediate action include funding to repair and correct structural or equipment deficiencies, appropriate preparation and training of personnel and staff, implementation or development of policies and procedures that impact school safety, and increased and useful collaboration and cooperation among tribal, federal, and local agencies with a role in ensuring student safety and well-being

Funding to Correct the Disrepair and Dangerous Conditions of Indian Education Facilities

First and foremost is the issue of structural deficiencies and the lack of funding to address them remain of paramount concern. Of the 4,495 education buildings in the BIE inventory, half are more than 30 years old and more than twenty percent (20 percent) are older than fifty years. Sixty-five percent (65 percent) of BIE school administrators report the physical condition of one or more school buildings as inadequate. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over $500 million and increases annually by $56.5 million. Of the 184 BIE Indian schools, one-third of Indian schools are in poor condition and in need of either replacement or substantial repair. In addition, lack of consistently functioning electrical systems, unrepaired gaping holes in security fences, broken or uninstalled surveillance cameras, and unsecurable doors and windows directly affect the ability of schools to ensure student and staff safety.

In 1997, GAO issued a report, *Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affairs* that documented an inventory of repair needs for education facilities totaling $754 million. In 2004 the backlog for construction and repair was reported to have grown to $942 million. More recently, in March of 2008, the Consensus Building Institute (CBI) with the U.S. Institute for Environmental Conflict Resolution issued a *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs-Funded Schools Facilities Construction.* CBI reported in their findings of the conditions of the schools that "security needs and related funding are major sources of concern for many schools," "aging or poor design may lead to a substandard educational environment," "operation and maintenance needs are not matched by operation and maintenance annual funding."[3]

In May of 2007, the Office of the Inspector General, Department of Interior, issued *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action,* a flash report that describes the conditions at BIE schools that require "immediate action to protect the health and safety of students and faculty." Although the Inspector General visited thirteen schools as part of their investigation, four schools were highlighted in the flash report—Chinle Boarding School, Shonto Preparatory School, Keams Canyon School, and the Kayenta Boarding School. In the report, the Inspector General cites deterioration ranging from "minor deficiencies such as leaking roofs to severe deficiencies such as classroom walls buckling and separating from their foundation." In his conclusion, the Inspector General states that the "failure to mitigate these conditions will likely cause injury or death to children and school employees." This flash report describes the alarming and life-threatening situation at BIE schools that the Federal Government has created in its failure to properly maintain these schools. Native children should not

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[1] The Office of the Inspector General, Department of the Interior *Evaluation of Controls to Prevent Violence at Bureau of Indian Education Operated Education Facilities* (August, 2008), p. 7.

[2] The Office of the Inspector General, Department of the Interior *Evaluation Report: School Violence Prevention* (February, 2010), p. 2.

[3] The Consensus Building Institute with the U.S. Institute for Environmental Conflict Resolution (March 5, 2008). *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs-Funded School Facilities Construction,* pp. 16–18.

have to risk their lives on a daily basis to access their fundamental right to an education.

Testifying at the NIEA-sponsored BIA/BIE regional hearing in Navajo Nation/ Window Rock, AZ, Hopi Tribal Chairman, Benjamin Nuvamsa stated, "our students are at extremely high risk because of exposure to hazardous materials in our school facilities. [Recently] severe reductions in annual appropriations for the building Operations, Maintenance and Repairs (OM&R) program results in the ever-increasing number of projects placed in the Facilities Maintenance Inventory System (FMIS). While waiting for funding, our students and staff are subjected to exposure to hazardous materials. Almost all schools have asbestos and radon issues which put the students and staff at risk." [4]

The purpose of education construction is to permit BIE to provide structurally sound buildings in which Native children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically when we fail to provide them with a proper environment to achieve success. The amount of funding over the past few years has failed to fund tribes at the rate of inflation, once again exacerbating the hardships faced by Native American students. Further, the funding that has been allocated over the past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair.

The Bureau of Indian Affairs (BIA)'s budget has historically been inadequate to meet the needs of Native Americans and, consequently, Indian school needs have multiplied. For FY 2008, the funding level was $142.94 million, for FY 2007, the funding level was $204.956 million; and, for FY 2006, the funding level was $206.787 million. Congress and the BIA has sought to justify the decrease over the past few years by stating that it wants to finish ongoing projects, however NIEA has repeatedly heard from several BIE schools who have indicated their "shovel ready" status. While the Recovery Act did provide $450 million to be shared among BIA school construction and repairs, detention facilities, roads, and irrigation projects, this funding has provided little headway considering the lengthy list of schools waiting to build and repair their facilities. Therefore, NIEA previously requested a $150.4 million increase from the FY 2010 enacted level of $112.994 million for a total of $263.4 million in FY 2011 to the BIA for Indian school construction and repair.

The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the Federal Government. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs, if 48,000 Indian students are to be educated in structurally sound schools. However, it addition to being structurally sound, these schools must also be structurally safe. With adequate funding to address school safety through the use of perimeter fencing to secure school grounds, surveillance cameras and metals detectors to deter weapons and on campus crime, and improved locks and other physical security measures.

While structural concerns may be the most visible indicators of school safety, several other areas of critical concern also need to be swiftly and adequately addressed.

Personnel

As noted in the February 2010 evaluation report, the staff in many Indian education facilities are unaware of or unable to implement basic safe plans such as performing lock down or school evaluation drills. High staff turnover, including principals and other administrators, results in a lack of institutional knowledge about safety procedures or available resources used to address and defuse potentially violent situations. In addition, lack of funding and a consistent plan for the training of incoming personnel means that most staff members lack adequate training areas critical to student well-being. Staff need to be trained to recognize and address indicators of potential violence, including gang and suicide prevention, how to address substance abuse, bullying prevention, and more. In addition, it is important to have adequate funding to support the hiring and retention of staff who can provide students with counseling and therapeutic interventions while also helping to train other school staff in appropriate measures for dealing with potential violent situations.

Policies and Procedures

Previous reports about school conditions and safety measures indicate that implementation or enforcement of policies and procedures that would help to ensure stu-

[4] Bureau of Indian Affairs and Bureau of Indian Education: Hearings before the National Indian Education Association, Widow Rock, AZ (August 21, 2008) (testimony of Benjamin Nuvamsa, Hopi Tribal Chairman).

dents and staff safety are often not implemented or enforced. For example, dress codes that prevent the wearing of gang related colors in schools may be not be enforced with consistency or consequences. Also, procedures restricting and monitoring visitor access to schools are critical in maintaining a safe school environment. While this may be heavily dependent on the quality of the physical building and its entrances, exits, locks, and other devices, a highly quality locking door is only as useful when it gets locked. According to both the 2008 and the 2010 OIG reports, the evaluators found multiple doors open or unlocked during the school day. Critical procedures also include the need to standardize and improve the NASIS (Native American Student Information System) and the FMIS (Facility Management System) systems. School personnel report struggling to use either system due to multiple procedural obstacles, including lack of consistent procedures for entering data and no ability to use the information for monitoring violent incidents or to analyze for predicting or identifying a specific trend or issue for intervention as is the case with NASIS. Or school personnel have very limited access and ability to enter or share data, including school facility managers being unable to enter basic safety deficiencies of school facilities with respect to the FMIS.[5] And related to this is a need for oversight and support to ensure that annual safety inspections are completed and verified—with deficiencies addressed before the next safety inspection is due. Procedures also need to address and rectify policies that are counterproductive and outdated. For example, facilities are currently only reimbursed 49 cents on the dollar for scheduled maintenance, making it next to financially impossible to make much needed improvements.

Coordination and Collaboration

Currently multiple agencies, including tribal, BIE, Health and Human Services (HHS), Indian Health Services (HIS), state and local laws enforcement and social services all assume different roles and responsibilities for students and their families. A lack of coordination and collaboration among the various agencies has resulted in little to no service provision for Native students in schools, or services not being rendered in a timely manner. Therefore, having requirements for collaboration built into funding sources or as part of mandatory programmatic objectives would help overcome jurisdictional conflicts and provide incentives for collaboration. Also, there is a critical need for transparent and strong leadership by BIE in helping schools and tribes to address safety concerns through the use of workable safety plans, or even the implementation of a general BIE safety plan. Tribal communities are in the best position to advise and help develop culturally relevant and appropriate methods for addressing issues like bullying prevention, substance abuse prevention, anti-gang programming, and suicide prevention for their Native students. Therefore, BIE also needs to firmly support the role of tribes as the best resource for knowledge about culturally relevant interventions, such as peace keeping circles, that provide students and schools with culturally appropriate tools and models for behavior and conflict resolution. Finally, increased transparency on the part of BIE is a necessary component in correcting safety concerns in BIE funded schools. Plans for how to address the concerns raised in recent OIG reports should be publicly shared with a request for feedback and input from tribes and Native communities. Also, accurate lists and plans for addressing structural deficiencies and distribution of resources to schools is important for school planning and prioritizing of even minor repairs or safety equipment purchases.

Conclusion

As an official interviewed in the August 2008 OIG report stated, it is "a matter of 'when and where'—not 'if'—a violent act would happen" in Indian education facilities.[6] It is a collective responsibility to do all that we can to ensure that our children do not have to risk their lives in deteriorating buildings without adequate supports for their wellbeing and personal safety in order to obtain an education. NIEA thanks the Committee for its hard work and diligence on behalf of Native communities and hopes that elevated congressional engagement around the issue of Indian school safety will help promote and ensure much needed improvements. With your support, we are hopeful that Indian Country will have the resources, oversight, and assistance it needs to create the kind of educational environment that Native children deserve.

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[5] Currently only safety directors can enter data into the FMIS system and many are not based onsite at school facilities.

[6] The Office of the Inspector General, Department of the Interior *Evaluation of Controls to Prevent Violence at Bureau of Indian Education Operated Education Facilities* (August, 2008), p. 1.

Senator UDALL. Thank you very much.
Please, Dr. Fairbanks, go ahead.

STATEMENT OF DR. ANTHONY FAIRBANKS, SUPERINTENDENT, PUEBLO OF LAGUNA DEPARTMENT OF EDUCATION

Dr. FAIRBANKS. Good morning, Chairman Udall and Members of the United States Senate Committee on Indian Affairs. I bring greetings from the Pueblo of Laguna, Governor John Antonio and the Laguna Pueblo Council, Laguna Department of Education Board Members and the staff and students to relate our story.

Thank you very much for allowing me to be here today. It is quite an honor.

Education is one of the top priorities for the Pueblo of Laguna and improving the education for the students of Laguna, New Mexico is an important ongoing effort. Of course, safety for our students is our first and foremost consideration. Students must have a safe learning environment to be academically successful.

The intent of my testimony is two-fold: one, to raise awareness of the serious safety concerns of the Laguna Elementary School; two, to advocate the need for all Bureau of Indian Education Schools to be safe learning environments.

Laguna schools struggle with the same issues other Bureau of Indian Education schools across the United States deal with on a regular basis: deteriorating infrastructure, buildings that are beyond their life expectancy, and unsecured open campuses, none of which can be remedied with the current limited financial resources available for improving or building new schools.

For example, in the fall of 2007, we were notified to close the Laguna Elementary School due to an assessment that revealed several cracks throughout the gymnasium and several classroom walls. After additional investigations, we were notified that our students and staff were safe, barring a significant seismic event or a microburst wind gust.

Two years later, a seismic event did occur just a few miles away from our school. Thankfully, there were no injuries from the 3.0 earthquake. However, it was quite concerning since the study indicated our school barring a significant seismic event, and warrants the need for a new school.

Our internal assessments revealed that the school's structural design developed in the 1960s does not sufficiently safeguard against potential violence. There are no centralized entries or exit points due to the open parameters of the campus.

The Laguna Elementary School currently has 41 backlogged deficiencies. The current cost to repair and/or replace these deficiencies is over $12 million.

Does Indian school safety get a passing grade? I will answer this question using the common language of our adequate yearly progress report, AYP standards, and my assessment is that we are at beginning steps. I believe we are making progress, but continue to have a long way to go.

I sincerely thank Chairman Dorgan and members of the United States Senate Committee on Indian Affairs for your time and interest with this very important matter. A special thanks and appreciа-

tion is extended to New Mexico Senator Udall for his continued support regarding these issues.

I also appreciate Senator Franken's recognition of the Red Lake, Minnesota high school students that were killed five years ago. Seven of those students were my former students, actually, when I was in Red Lake as a football coach and principal of an elementary school. The unarmed security guard, Derrick Brun, was my cousin. So I appreciate Senator Franken's interest and support to help advocate for safe school environments.

I also want to thank Assistant Secretary Echo Hawk, Mr. Bart Stevens and Mr. Jack Rever. I know first-hand of their reputable leadership and I appreciate their sincere efforts very much.

I respectfully urge the United States Senate Committee on Indian Affairs to advocate for increased allocations of facility repair and new school construction funds to meet the needs of all Bureau of Indian Education schools.

In addition to more funds, there is room for improvement within the Bureau's facilities management information system. More consistent, proactive procedures addressing structural concerns in a timely fashion will allow for increased collaborative efforts.

All children are entitled to have a safe and secure learning environment. With your continued support and assistance, we can make this much-needed initiative a reality. If there is anything the Pueblo of Laguna or I can do to assist your efforts in addressing these issues, please feel free to contact us.

Thank you very much and God bless.

[The prepared statement of Mr. Fairbanks follows:]

PREPARED STATEMENT OF DR. ANTHONY FAIRBANKS, SUPERINTENDENT, PUEBLO OF LAGUNA DEPARTMENT OF EDUCATION

Background

The Laguna Department of Education (LDoE) was established in 1991 to oversee Laguna tribal education programs and was a major driving force that helped create the first Pueblo contract school in New Mexico under the provision of a PL-638 grant. The LDoE serves over 1,000 students within the Department of Early Childhood, Early Intervention/Special Services, Laguna Child Care Center, early Head Start and Pre-School Head Start, the Laguna Elementary School, the Laguna Middle School, the Higher Education and Workforce Development programs.

The Laguna Elementary School presently has 273 Kindergarten through fifth grade students and was built in 1963. The Pueblo of Laguna Governor John Antonio and the Pueblo Council, the Laguna Department of Education board members, and the community of Laguna as a whole are very concerned about the structural safety of their elementary school. Due to the urgency of our concern for the safe and secure learning environments of our children and staff, the Pueblo of Laguna leadership has been working diligently with Mr. Jack Rever, Director of the Bureau of Indian Affairs Office of Facilities, Environmental and Cultural Resources Management for the past three years.

Challenges

We struggle with the same issues that the Bureau of Indian Education schools across the United States deal with on a regular basis: deteriorating infrastructure, dilapidated buildings and unsecured open campuses, none of which can be easily remedied with the current financial resources allocated.

For example, on November 9, 2007, The Laguna Department of Education was notified to close the Laguna Elementary School due to an assessment that revealed several cracks throughout the walls of the gymnasium and several classrooms. After an additional visual

investigation was completed, the recommendation was made that the school could reopen and that "barring an extreme event such as a significant seismic event, or a micro burst wind gust we do not believe that the buildings pose an unacceptable risk to life and safety" (Attachment A and B).

The Laguna Elementary School currently has 41 backlogged deficiencies. The system of funding deficiencies is reactive, not proactive. Structural deficiencies continue to accumulate while the allocated funding continues to fall short of being able to meet our needs. The cost of repair has continued to increase significantly each year, making our school a financial liability. The current cost to repair and/or replace current infrastructure and deficient conditions to the Laguna Elementary School is $12,597,546.00.

The Laguna Elementary School and Laguna Head Start facilities are well beyond their life expectancies and have outdated electrical and distribution systems, a water line constructed of asbestos cement piping, and aged and deteriorated boiler pipes. Most sewer pipes are constructed of clay, which has forced periodical restroom closures while tree roots are extracted. There is limited heating and cooling systems in the cafeteria and kitchen areas. Additionally, the elementary school is operating with obsolete electrical equipment; breakers and panels can be and have been repaired, but cannot be replaced due to the entire system being obsolete (Attachment C and D).

Bureau of Indian Education school systems, such as ours, are financially limited to respond to emergency situations that may arise. An example of this occurred within Laguna in the fall of 2009, when the Department of Education experienced a severe water stoppage due to faulty infrastructure (Attachment E). The stoppage had the potential to shut our entire education department down for two weeks. In order to avert this, we moved to abbreviated school days, brought in 35 portable toilets and wash stations, as well as, clean cooking and drinking water. This emergency put a strain on our financial resources as we attempted to continue to provide educational services to our students and at the same time maintain our infrastructure.

As part of the pursuit to uphold high educational standards, we continue to make violence prevention a top priority. In collaboration with the Bureau of Indian Education, the Safe and Drug Free Schools program addresses the issues of violence with anti-bullying training, crisis and suicide prevention. A campus wide surveillance system was installed in 2008. In 2009, the Laguna Middle School opened the Elev8 School Based Counseling Center, which provides medical, dental and behavioral related student services.

Recommendations

Although the Laguna Elementary School ranks among the highest in need for construction for a replacement facility, we know that the list is very long and we are concerned with the limitations and availability of Bureau of Indian Education school construction funds. Thus, there is the urgent need to continue advocating for sufficient funds.

In addition to more funds, there is room for improvement within the Bureau Facilities Management Information System. More consistent, proactive procedures addressing structural concerns in a timely fashion will allow for increased collaborative efforts.

The current funding for new school construction is simply not enough to meet the demands of the Laguna Elementary School, nor those within Native American communities throughout the United States (Attachment F and G). I respectfully urge the United States Senate Committee on Indian Affairs to advocate for increased allocations of vital facility operations and maintenance, minor improvement and repair, facility improvement and repair and new school construction funds to the Department of Interior and Bureau of Indian Affairs in order to meet the needs of all Bureau of Indian Education schools.

I hope what is provided within this testimony demonstrates a compelling and urgent need for resources because all children are entitled to have a safe and secure learning environment. With the continued support and assistance of the United States Senate Committee on Indian Affairs, we can make this much-needed initiative a reality.

Attachment A

PUEBLO OF LAGUNA
P.O. Box 194
LAGUNA, NEW MEXICO 87026

Office of:
The Governor
The Secretary
The Treasurer

(505)552-6654
FAX: (505)552-6941

July 23, 2009

Mr. Jack Rever, Director, Office of Facilities
Environmental and Cultural Resources Dept.
Office of the Assistant Secretary
United States Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Re: Seismic Activity Within Our Area

Dear Mr. Rever:

This letter is in support of the letter you received from Dr. Anthony Fairbanks on the reported seismic activity within our area on or about July 17, 2009. Dr. Fairbanks had enclosed for you a USGS earthquake report that indicated the seismic activity occurred within a few miles of where the Laguna Elementary School is located. I am well aware of the language contained in the report the RME Company provided on February 4, 2008, wherein the structural engineers that actually looked at the facilities stated, "Barring an extreme event such as a significant seismic event, or a microburst wind gust, we do not believe that the Multipurpose Building 1135…Administration Building 1130…Classroom Buildings 1131 and 1134, poses an unacceptable risk to life and safety." I don't think anybody expected to have an event like this occur, but it did, and it could happen again. I am of the same opinion that Dr. Fairbanks expressed in his letter, that this event should prompt an immediate review of our situation and expedite the process to improve and/or replace the Laguna Elementary School facilities.

Our immediate concern is with the health and safety of the children and school personnel should we have any further seismic activity. Therefore, I would urge you to look into this matter again. I am currently trying to get additional information as to what, if any, further damages may have occurred at the school due to the recent seismic activity. As soon as I get this information, I will forward it to you. If you have any questions, please do not hesitate to contact me.

Thank you for your immediate attention to this matter.

Sincerely,

PUEBLO OF LAGUNA

John E. Antonio Sr.
Governor

cc: Senator Bingaman, Senator Udall, Representative Teague,
Representative Lujan, Representative Heinrich, Representative McCollum

PUEBLO of LAGUNA
Department of Education

P.O. Box 207
Laguna, New Mexico 87026

July 22, 2009

Mr. Jack Rever, Director, Office of Facilities
Environmental and Cultural Resources Management
Office of the Assistant Secretary
United States Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Dear Mr. Rever,

I hope this letter finds you and your family well.

As a follow up to our conversations related to the Laguna Elementary School facility, please find the enclosed USGS July 17, 2009 earthquake report. Please note the center of this seismic activity occurred just a few miles from the site of the Laguna Elementary School site within the village of Laguna, New Mexico.

Thankfully, there were no injuries or fatalities reported from this earthquake, but it is quite concerning, especially in referencing the February 4, 2008 *Laguna Elementary School Structural Investigation - Revised Laguna, New Mexico* report. Within the report, page two, paragraphs one, three and five, it is written, "Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Multipurpose Building 1135… Administration Building 1130… Classroom Buildings 1131 to 1134, poses an unacceptable risk to life and safety."

As we are aware, the Laguna Elementary School facilities are beyond their life expectancy and have a backlog of deficiencies over $7.5 million dollars. The fact that there has been significant seismic activity at such close proximity may impose justification to expedite the process to improve and/or replace the Laguna Elementary School facilities as soon as possible. I believe the initiation and timeliness of this process is urgent. We cannot be certain if there will be more significant seismic events within the near future.

Thank you very much for your respectful attention to this important matter. Please feel free to contact me on how I can assist and collaborate with you to ensure a safe learning environment for our students, staff and community members.

Sincerely,

Dr. Anthony R. Fairbanks, Superintendent
Pueblo of Laguna Department of Education
PO Box 207, Laguna, NM, 87026

Cc: Laguna Department of Education Board of Education
Governor John Antonio, Pueblo of Laguna

RMEABQ
RMEABQ, LLC • Structural Engineers

February 4, 2008

Mr. Greg Comer
Dyron Murphy Architects, PC
5941 Jefferson NE – Suite A
Albuquerque, New Mexico 87109

Please Copy: Norman Suazo
Barbara Borgeson

RE: LAGUNA ELEMENTARY SCHOOL
STRUCTURAL INVESTIGATION - REVISED
LAGUNA, NEW MEXICO

Dear Greg:

As requested, we have performed a visual investigation of the original 1963 School Buildings: Multipurpose Building (1135), Administration Building (1130), and four Classroom Buildings (1131, 1132, 1133 and 1134) at the referenced school site. We have also reviewed the limited Geo-technical Forensic Engineering report by Terracon, dated January 11, 2008.

The purpose of our investigation was to determine if the cracks observed around the perimeter of the buildings were structural distress cracks affecting the structural stability of the buildings. Some Section sheets from the original 1963 Construction Drawings, and the 1981 Structural Repair Drawing set were made available to us for our investigation.

Visual Investigation

The Multipurpose Building 1135 has the most "cracking" around the perimeter of the building, especially in the high bay walls. Most of the "cracking" is occurring on the south and west walls, and the south end of the east wall. Per the original drawings, the walls around the high bay area of the Multipurpose Building are 12" thick x 16" long x 4" high un-reinforced concrete masonry units, with an 8"x 8" reinforced masonry bond beam at 10'-8" above finish floor and a concrete bond beam running around the top of the walls. No masonry control joints were observed in the Building 1135 walls. Except for some hairline vertical cracks, approximately in the middle width of the east and south walls, and some stair step cracks over duct penetrations on the west wall, none of the "cracking" observed on the exterior of the walls were observed on the inside face of the walls. Most of the cracking observed on the exterior of Building 1135 was occurring along masonry mortar joints, where the paint over the joints were cracking and curling. In the interior of Building 1135, there are some minor cracks occurring at intersecting

interior and exterior walls. The 1981 structure repair drawings indicated that new footings were to be installed around the perimeter of Building 1135, in addition to wide flange steel beams added to the exterior face of the east and south high bay walls. The new footings were to bear on basalt bedrock layer several feet below the bottom of the existing footings.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Multipurpose Building 1135 poses an unacceptable risk to life and safety.

The Administration Building 1130 has some minor cracks around the perimeter of the building. The most notable occurs at the northeast corner of the building. The crack begins at masonry control joint at the east end of the north wall, and stair steps up two or three courses heading east. The east wall appears to be pushed out about a ½", right at the corner. This crack can be seen on both the interior and exterior face of the wall. We observed the concrete bond beam above the cracks and the beam is intact, with no noticeable cracks. As with Building 1135, there are minor cracks at the intersection of interior to exterior walls at several locations. The 1981 Structural Repair Drawings did not call for the footings to be underpinned at Building 1130. The exterior walls were supposed to be reinforced during the 1981 structural repairs.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Administration Building 1130 poses an unacceptable risk to life and safety.

At the Classroom Buildings (1131-1134), minimal cracking was observed. At Classroom Buildings 1131, on the south wall, at each end of the building, there is a crack through the wall, at the base of the wall. We do not know what caused these cracks, but they do not appear to be detrimental to the structural integrity of the wall.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Classroom Buildings 1131 to 1134 poses an unacceptable risk to life and safety.

Limited Geo-technical Forensic Engineering Report

According to Terracon's Report, the soils below the buildings consist of a combination of clay and silty soils overlaying basalt bedrock. The basalt bedrock layer varies in depth between 6½' to 20½'. According to Terracon's report the clay and silty soils have the potential to both expand and compress when subject to changes to moisture content. Per Terracon's site observations and conditions, it appears that minimal movement has occurred at areas repaired during the 1981 structural repairs.

Conclusions and Recommendations

We believe that most of the cracking observed on the buildings is a result of thermal movement in the CMU walls which have no masonry control joints, and deterioration of mortar joints due to the age of the buildings. There may be some minor movement of the buildings due to sub-surface soils.

We recommend that further investigation be performed as follows:

1. Crack monitors be installed at areas of distress in all of the buildings, and monitored over a 12-month period, to determine if the distress is a result of changes in temperature or moisture.
2. The paint over masonry joints at several locations on the south and west walls of building 1135 be removed to observe the condition of mortar, and determine if cracks are present in the joints.
3. Have a testing agency check the walls of all of the building to determine if vertical rebar is present in the CMU walls.

The firm that did the limited geo-technical forensic engineering investigation has the capability to install and monitor the crack monitors and verify the presence of vertical reinforcing. It is recommended that Terracon be engaged to perform this work through the A/E Team contract. Once this final information has been collected, a final report will be written.

It should be noted that the existing school buildings are approximately 44 years old, and were designed and constructed under building codes that are not as stringent as present building codes. While remedial repairs could be designed and constructed to bring the building up to present building code requirements, they would be costly, and would probably extend the serviceable life of the building only a few years.

If you have any questions, please contact my office.

Sincerely,

David Sullens

David H. Sullens, P.E.
Vice President

DHS/lg

EQ 3.0 Paguate, NM - PRELIMINARY REPORT

CAP Alert

Summary

Identifier: USGS-earthquakes-us2009jeas.Q.20090717T085319.873Z
Sender: http://earthquake.usgs.gov/recenteqsUS/contacts.htm#us
Sent: 2009-07-17T08:53:20+00:00
Status: Actual
Message Type: Update
Scope: Public

Additional Details:

Category:	Geo	**Urgency:**	Past
Event:	Earthquake	**Severity:**	Unknown
		Certainty:	Likely

Sender Name: U.S. Geological Survey
Headline: EQ 3.0 Paguate, NM - PRELIMINARY REPORT
Description: An earthquake with magnitude 3.0 occurred near Paguate, NM at 05:26:05.30 UTC on Jul 17, 2009. (This event has been reviewed by a seismologist.)
Web: http://earthquake.usgs.gov/eqcenter/recenteqsww/Quakes/us2009jeas.php
Contact: http://earthquake.usgs.gov/recenteqsUS/contacts.htm#us
Parameter: EventTime=2009-07-17T05:26:05+00:00
Parameter: EventIDKey=us2009jeas
Parameter: Version=Q
Parameter: Magnitude=3.0
Parameter: Depth=5.0 km (3.1 miles)
Parameter: HorizontalError=7.5 km
Parameter: NumStations=15
Parameter: NumPhases=15
Parameter: MinDistance=100.4 km
Parameter: RMSTimeError=1.02 seconds
Parameter: AzimuthalGap=72 degrees

Description: 20 miles (32 km) NNW of Paguate, NM; 22 miles (35 km) N of Encinal, NM; 26 miles (42 km) N of Laguna, NM; 49 miles (80 km) WNW of Albuquerque, NM; 326 miles (524 km) SSW of Denver, CO
Circle: 35.425,-107.398 0.0

Attachment B

United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

November 16, 2007

Honorable John E. Antonio
Chairman, of the Laguna Pueblo
P.O. Box 194
Laguna, New Mexico 87026

Dear Chairman Antonio:

Enclosed you will find a report of structural conditions at the Laguna Elementary School. As you will see, our consulting engineer has determined that none of the campus buildings represent an imminent danger to students, teachers or visitors. Accordingly, I withdraw my concern and recommend that you re-open the dining/gym facility without delay.

There is certainly a risk to students, faculty and visitors in the event of a severe seismic event or a microburst wind event, but that risk is no more than at most schools, Indian or non-Indian, built in the 1960s.

I intend to pursue the in-depth analysis of the condition of the structural elements and other building parameters as a prudent continuation of the current effort of the differential settlement that is evident by visual inspection. When completed, you will be provided the complete report for your information.

I appreciate your concern and am pleased that we could respond to this disruption of the school as we addressed the content of the first cursory report. I am pleased that we could work together to resolve all issues with a minimal disruption to the important mission of children's education.

I remain always available to respond to your questions or concerns.

Sincerely,

John N. Rever, P. E.
Director, Office of Facilities, Environmental and Cultural Resources

Enclosure

cc: Kevin Skenandore, Bureau of Indian Education
Boyd Robinson, Facilities, Management and Construction
Debbie Clark, Deputy Assistant Manager

Rapid Visual Screening of Seismically Hazardous Buildings

'91/'94 NEHRP Zone: Mod

Checked By:

RVS Date: 6/13/2002

Address: I 40 Exit 114 Laguna Elementary School Building: 1 Lat: 35.04 Long: -107.39
Laguna, NM 87026 Cibola County

Bldg. No.: BIA/M21-02/1133/S2

Number of Stories: 1 Constr. Year: 1954

Inspection: Douglas J McCall

Fl. Area (SF): 4,679 Fl. Area Source: Contact Person

Building Use: Classrooms 13 - 16

Building Contact Information:

RVS Contact Person: Frank E. Lujan, (505) 346-7595

Address: 615 First Street NW, Suite 104
Albuquerque, NM 87125

Site Contact Person: Al Waconda,505-552-6807

Address: I-40 Exit 114 Building 1125
Laguna, NM 87026

Ownership :

Are Drwgs Available? No

Is Building Essential? No

Is Building Historic? No

Historic Considerations: No

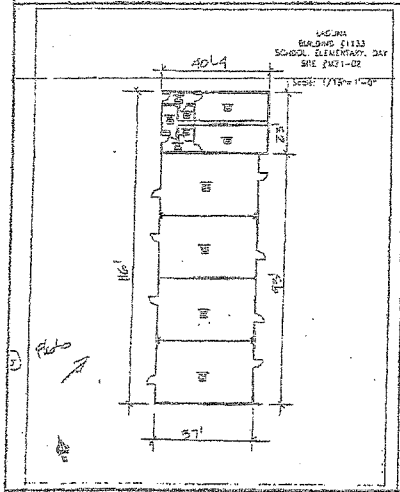
Interior Inspection: No

Lead Paint Results: Neg

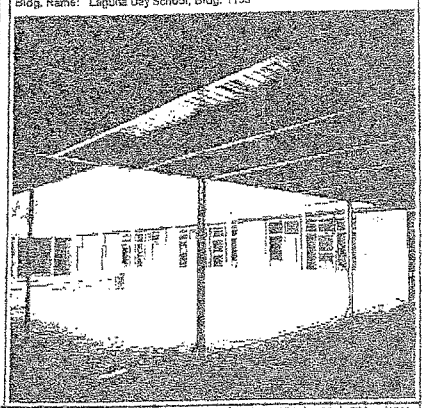
Soil Type: SL3

Basis for Soil Type: Assumed

Foundation Type: Spread Footing



Bldg. Name: Laguna Day School, Bldg. 1133



Occupancy:

Persons @ Hrs. / Wk. @ Mo./yr

85 @ 30 @ 10

____ @ ____ @ ____

____ @ ____ @ ____

____ @ ____ @ ____

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4 (RC SW)	C1 (MRF)	C2 (SW)	C3/S5 (URM INF)	PC1 (TU)	PC2	RM	URM
Basic Score:	6	4	3	6	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL3/ 8 to 20 stories:	N/A	-0.8	-0.8	N/A	-0.8	-0.8	-0.8	-0.8	N/A	-0.8	-0.8	-0.8
Final Score:											1.9	

NBT Notes:
None

RVS Notes:
Plan Irregularity is checked because the building's length is more than twice its width. Reinforcing verified with magnetic rebar finder. Historic regularity is checked because building is over 30 years old. Foundation system is assumed. SL3 Assumed.

Print Date: 9/2/2003

Rapid Visual Screening of Seismically Hazardous Buildings
'91/'94 NEHRP Zone: Mod

Checked By: _____
RVS Date: 8/13/2002

Address: I 40 Exit 114 Laguna Elementary School Building 1
Laguna, NM 87026 Cibola County
Lat: 35.04
Long: -107.35

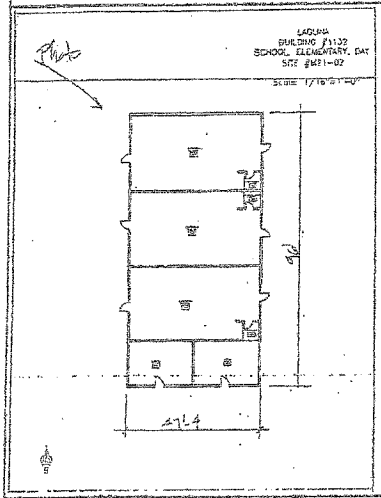
Bldg. No.: BIA/M21-02/1132/S2
Number of Stories: 1 Constr. Year: 1994
Inspection: Douglas J McCall
Fl. Area (SF): 4,528 Fl. Area Source: Contact Person
Building Use: Classrooms 10 - 12

Ownership :
Are Drwgs Available? No
Is Building Essential? No
Is Building Historic? No
Historic Considerations: No
Interior Inspection: No
Lead Paint Results: Neg
Soil Type: SL3
Basis for Soil Type: Assumed
Foundation Type: Spread Footing

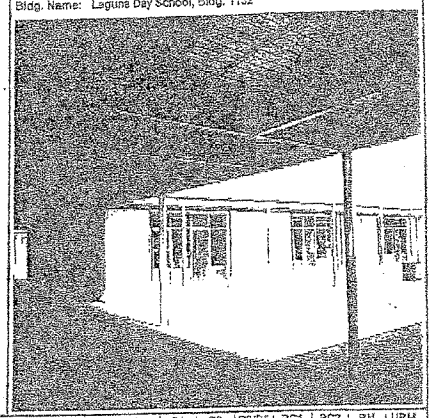
Building Contact Information:

RVS Contact Person: Frank E. Lujan, (505) 346-7398
Address: 515 First Street NW, Suite 104
Albuquerque, NM 87125

Site Contact Person: Al Waconda,505-552-6807
Address: I-40 Exit 114 Building 1125
Laguna, NM 87026



Bldg. Name: Laguna Day School, Bldg. 1132



Occupancy:

Persons @ Hrs. / Wk. @ Mo./Yr

45 @ 30 @ 10
___ @ ___ @ ___
___ @ ___ @ ___
___ @ ___ @ ___

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4 (RC SW)	C1 (MRF)	C2 (SW)	C2/S5 (URM INF)	PC1 (TU)	PC2	RM	URM
Basic Score:	3	4	3	6	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL3/ 8 to 20 stories:	N/A	-0.6	-0.6	N/A	-0.6	-0.6	-0.6	-0.6	N/A	-0.6	-0.6	-0.6
Final Score:											1.9	

MBT Notes:
None

RVS Notes:
Plan irregularity is checked because the building's length is more than twice its width. Reinforcing verified with magnetic rebar finder. Historic registry is checked because building is over 30 years old. Foundation system is assumed. SL3 Assumed.

Print Date: 9/3/2003

Rapid Visual Screening of Seismically Hazardous Buildings
'91/94 NEHRP Zone: Mod

Checked By: _____
RVS Date: 8/13/2002

Building Contact Information:

RVS Contact Person: Frank E. Lujan, (505) 348-7585
Address: 515 First Street NW, Suite 104
Albuquerque, NM

Site Contact Person: Al Waconda, 505-552-5307
Address: I-40 Exit 114 Building 1125
Laguna, NM 87026

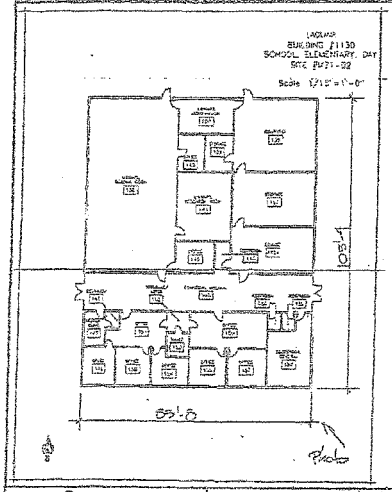
Address: I 40 Exit 114 Laguna Elementary School Building 1 Lat: 35.04
Laguna, NM 87026 Cibola County Long: -107.35

Bldg. No.: BIA/M21-02/1130/32

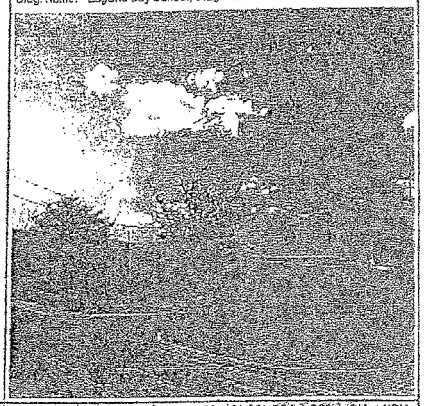
Number of Stories: 1 Constr. Year: 1954
Inspector: Douglas J McCall
Fl. Area (SF): 9,538 Fl. Area Source: Contact Person
Building Use: Admin, Library

Ownership :
Are Drwgs Available? No
Is Building Essential? No
Is Building Historic? No
Historic Considerations: No

Interior Inspection: No
Lead Paint Results: Neg
Soil Type: SL3
Basis for Soil Type: Assumed
Foundation Type: Spread Footing



Bldg. Name: Laguna Day School, Bldg. 1130



Occupancy:

Persons @ Hrs. / Wk. @ Mo./yr

50 @ 30 @ 10
10 @ 40 @ 10
3 @ 40 @ 12
___ @ ___ @ ___

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4	C1 (MRF)	C2 (SW)	C3/S5	PC1 (TU)	PC2	RM	URM
Basic Score:	6	4	3	6	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL2/ 9 to 20 stories:	N/A	-0.8	-0.8	N/A	-0.8	-0.8	-0.8	-0.8	N/A	-0.8	-0.8	-0.8
Final Score:											2.5	

MBT Notes:
None

RVS Notes:
Reinforcing verified with magnetic rebar finder. Historic registry is checked because building is over 50 years old. Spread footing foundation is assumed. SL3 Assumed.

Print Date: 9/2/2003

Rapid Visual Screening of Seismically Hazardous Buildings

'91/'94 NEHRP Zone: Mod

Checked By: _____

RVS Data: 8/13/2002

Building Contact Information:

RVS Contact Person: Frank E. Lujan, (505) 345-7595
Address: 515 First Street NW, Suite 104
Albuquerque, NM 87125

Site Contact Person: Al Waconda,505-552-6607
Address: I-40 Exit 114 Building 1125
Laguna, NM 87026

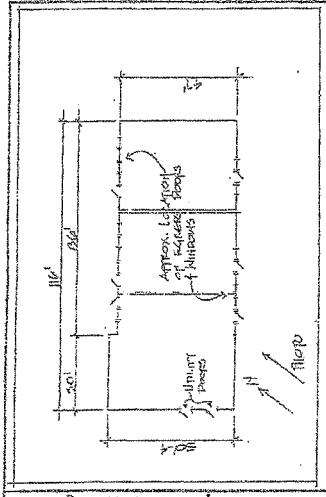
Address: I 40 Exit 114 Laguna Elementary School Building 1 Lat: 35.04
Laguna, NM 87026 Cibola County Long: -107.38

Bldg. No.: BIA/M21-02/1131/S2

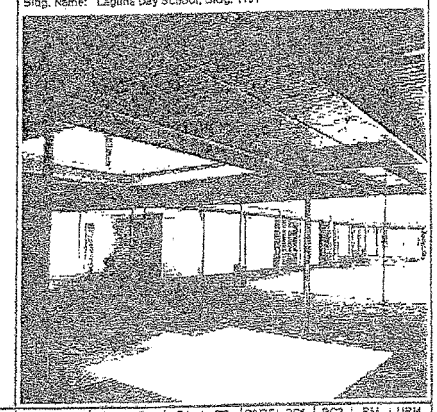
Number of Stories: 1 Constr. Year: 1954
Inspector: Douglas J McCall
Ft. Area (SF): 5,821 Ft. Area Source: Calculated
Building Use: Elementary School Classrooms 1-4

Ownership :
Are Drwgs Available? No
Is Building Essential? No
Is Building Historic? No
Historic Considerations: No

Interior Inspection: No
Lead Paint Results: Neg
Soil Type: SL3
Basis for Soil Type: Assumed
Foundation Type: Spread Footing



Bldg. Name: Laguna Day School, Bldg. 1131



Occupancy:

Persons @ Hrs. / Wk. @ Mo./Yr

65 @ 30 @ 10
___ @ ___ @ ___
___ @ ___ @ ___
___ @ ___ @ ___

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4 (RC SW)	C1 (MRF)	C2 (SW)	C3/S5	PC1 (TU)	PC2	RM	URM
Basic Score:	5	4	3	5	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL3/ 8 to 20 stories:	N/A	-0.6	-0.6	N/A	-0.6	-0.6	-0.6	-0.6	N/A	-0.6	-0.6	-0.6
Final Score:											1.6	

M.S.T. Notes:
Reinforced CMU. Reinforcing verified with magnetic rebar locator.

RVS Notes:
Historic registry is checked because building is over 30 years old. SL3 Assumed.

Print Date: 9/2/2003

Rapid Visual Screening of Seismically Hazardous Buildings
'81/'94 NEHRP Zone: Mod

Checked By:
RVS Date: 8/13/2002

Address: I 40 Exit 114 Laguna Elementary School Building 1 Lat: 35.04
Laguna, NM 87026 Cibola County Long: -107.38

Bldg. No.: BIA/M21-02/1134/52

Number of Stories: 1 Constr. Year: 1954
Inspector: Douglas J McCall
Fl. Area (SF): 5,450 Fl. Area Source: Contact Person
Building Use: Classrooms 5 - 9

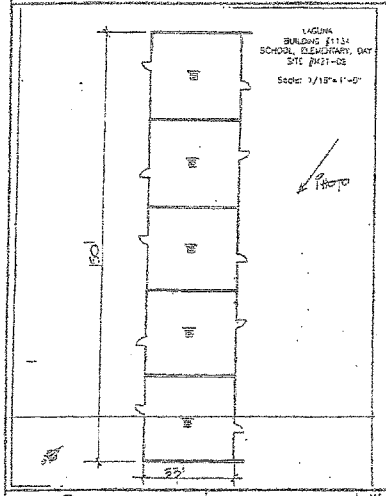
Ownership :
Are Drwgs Available? No
Is Building Essential? No
Is Building Historic? No
Historic Considerations: No

Interior Inspection: No
Lead Paint Results: Neg
Soil Type: SL3
Basis for Soil Type: Assumed
Foundation Type: Spread Footing

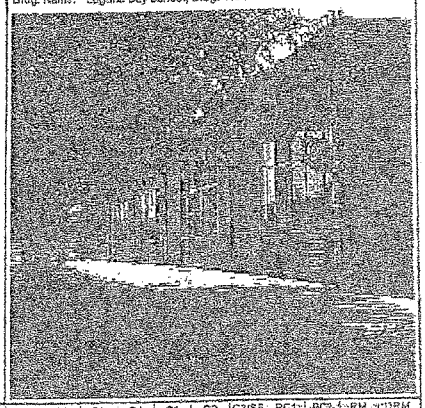
Building Contact Information:

RVS Contact Person: Frank E. Lujan, (505) 346-7595
Address: 615 First Street NW, Suite 104
Albuquerque, NM 87125

Site Contact Person: Al Waconda,505-552-6807
Address: I-40 Exit 114 Building 1125
Laguna, NM 87026



Bldg. Name: Laguna Day School, Bldg. 1134



Occupancy:

Persons @ Hrs. / Wk. @ Mo./yr
35 @ 33 @ 10
___ @ ___ @ ___
___ @ ___ @ ___
___ @ ___ @ ___

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4 (RC SW)	C1 (MRF)	C2 (SW)	C3/S5 (URM INF)	PC1 (TU)	PC2	RM	URM
Basic Score:	6	4	3	6	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL3/ 6 to 20 stories:	N/A	-0.8	-0.8	N/A	-0.8	-0.8	-0.8	-0.8	N/A	-0.8	-0.8	-0.8
Final Score:											1.9	

MBT Notes:
None

RVS Notes:
Plan irregularity is checked because the building's length is more than twice its width. Reinforcing verified with magnetic rebar finder. Historic registry is checked because building is over 50 years old. Foundation system is assumed. SL3 Assumed.

Print Date: 9/2/2003

Rapid Visual Screening of Seismically Hazardous Buildings
'91/'94 NEHRP Zone: Mod

Checked By: _____
RVS Date: 5/13/2002

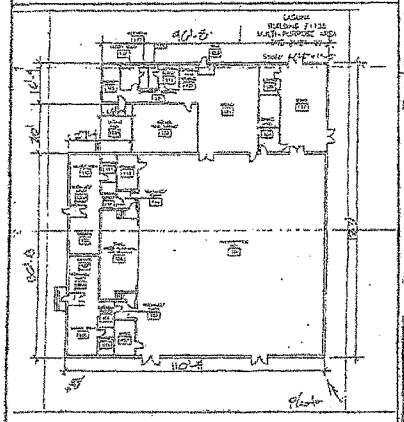
Address: I 40 Exit 114 Laguna Elementary School Building 1 Lat: 35.04
Laguna, NM 87026 Cibola County Long: -107.35

Bldg. No.: BIA/M21-02/1135/MP
Number of Stories: 1 Constr. Year: 1954
Inspector: Douglas J McCall
Fl. Area (SF): 15,000 Fl. Area Source: Contact Person
Building Use: Multi Purpose Building

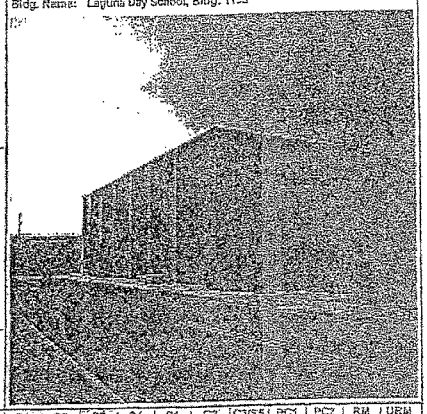
Ownership :
Are Drwgs Available? No
Is Building Essential? No
Is Building Historic? No
Historic Considerations: No

Interior Inspection: No
Lead Paint Results: Neg
Soil Type: SL3
Basis for Soil Type: Assumed
Foundation Type: Spread Footing

Building Contact Information:
RVS Contact Person: Frank E. Lujan, (505) 346-7596
Address: 615 First Street NW, Suite 104
Albuquerque, NM 87125
Site Contact Person: Al Wesonda,505-552-5507
Address: I-40 Exit 114 Building 1125
Laguna, NM 87026



Bldg. Name: Laguna Day School, Bldg. 1125



Occupancy:

# Persons	@ Hrs. / Wk.	@ Mo./Yr
460	@ 1	@ 10
175	@ 10	@ 10
25	@ 30	@ 10
4	@ 40	@ 10

Model Building Type:	W	S1 (MRF)	S2 (BR)	S3 (LM)	S4 (RC SW)	C1 (MRF)	C2 (SW)	C3/S5	PC1 (TU)	PC2	RM	URM
Basic Score:	6	4	3	5	4	3	3.5	2	3.5	2	3.5	2
High Rise:	N/A	-1	-0.5	N/A	-1	-0.5	-1	-1	N/A	0	-0.5	-0.5
Poor Condition:	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Vertical Irregularity:	-0.5	-0.5	-0.5	-0.5	-1	-1	-0.5	-1	-1	-1	-0.5	-1
Soft Story:	-1	-2	-2	-1	-2	-2	-2	-1	-1	-1	-2	-1
Torsion:	-1	-2	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1
Plan Irregularity:	-1	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-1	-1	-1	-1
Pounding:	N/A	-0.5	-0.5	N/A	-0.5	-0.5	N/A	N/A	N/A	-0.5	N/A	N/A
Large Heavy Cladding:	N/A	-2	N/A	N/A	N/A	-1	N/A	N/A	N/A	-1	N/A	N/A
Short Column:	N/A	N/A	N/A	N/A	N/A	-1	-1	-1	N/A	-1	N/A	N/A
Post Benchmark Year:	2	2	2	2	2	2	2	N/A	2	2	N/A	N/A
Soil: SL2	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3	-0.3
Soil: SL3	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Soil: SL3/ 8 to 20 stories:	N/A	-0.8	-0.8	N/A	-0.8	-0.8	-0.8	-0.8	N/A	-0.8	-0.8	-0.8
Final Score:											2.1	

MBT Notes:
None

RVS Notes:
Reinforcing verified with magnetic rebar finder. Poor condition is checked due to significant cracks in the CMU walls. Wide flange beams have been bolted to the exterior of the building that appear to be a retrofit to the original structure. Building contains a gymnasium, kitchen and dining facilities. It is also used for occasional assemblies. Historic registry is checked because building is over 35 years old. Foundation system is assumed. SL3 Assumed.

Print Date: 9/2/2003

RMEABQ, LLC • Structural Engineers

November 15, 2007

Mr. Greg Comer
Dyron Murphy Architects, PC
5941 Jefferson NE – Suite A
Albuquerque, New Mexico 87109

Please Copy: Norman Suazo
Barbara Borgeson

RE: LAGUNA ELEMENTARY SCHOOL
STRUCTURAL INVESTIGATION
LAGUNA, NEW MEXICO

Dear Greg:

As requested, we have performed a visual investigation of the Multipurpose Building (1135), Administration Building (1130), and four Classroom Buildings (1131, 1132, 1133 and 1134) at the referenced school site.

The purpose of our investigation was to determine if the cracks observed around the perimeter of the buildings were structural distress cracks affecting the structural stability of the buildings. Some Section sheets from the original 1963 Construction Drawings, and the 1981 Structural Repair Drawing set were made available to us for our investigation.

The Multipurpose Building 1135 has the most "cracking" around the perimeter of the building, especially in the high bay walls. Most of the "cracking" is occurring on the south and west walls, and the south end of the east wall. Per the original drawings, the walls around the high bay area of the Multipurpose Building are 12" thick x 16" long x 4" high un-reinforced concrete masonry units, with an 8"x 8" reinforced masonry bond beam at 10'-8" above finish floor and a concrete bond beam running around the top of the walls. No masonry control joints were observed in the Building 1135 walls. Except for some hairline vertical cracks, approximately in the middle width of the east and south walls, and some stair step cracks over duct penetrations on the west wall, none of the "cracking" observed on the exterior of the walls were observed on the inside of the walls. Most of the cracking observed on the exterior of Building 1135 was occurring along masonry mortar joints, where the paint over the joints were cracking and curling. In the interior of Building 1135, there are some minor cracks occurring at intersecting interior and exterior walls. The 1981 structure repair drawings indicated that new footings were to be installed around the perimeter of Building 1135, in addition to side flange steel beams added to the exterior face of the east and south high bay walls. The new footings were to bear on basalt bedrock layer several feet below the bottom of the existing footings.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Multipurpose Building 1135 poses an unacceptable risk to life and safety.

The Administration Building 1130 has some minor cracks around the perimeter of the building. The most notable occurs at the northeast corner of the building. The crack begins at masonry control joint at the east end of the north wall, and stair steps up two or three courses heading east. The east wall appears to be pushed out about a ½", right at the corner. This crack can be seen on both the interior and exterior face of the wall. We observed the concrete bond beam above the cracks and the beam is intact, with no noticeable cracks. As with Building 1135, there are minor cracks at the intersection of interior to exterior walls at several locations. It does not appear that new footings underpinning was installed under Building 1130 during the 1981 structural repairs. The exterior walls were supposed to be reinforced.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Administration Building 1130 poses an unacceptable risk to life and safety.

At the Classroom Buildings (1131-1134), minimal cracking was observed. At Classroom Buildings 1131, on the south wall, at each end of the building, there is a crack through the wall, at the base of the wall. We do not know what caused these cracks, but they do not appear to be detrimental to the structural integrity of the wall.

Barring an extreme event such a significant seismic event, or a microburst wind gust we do not believe that the Classroom Buildings 1131 to 1134 poses an unacceptable risk to life and safety.

In Conclusion, we believe that most of the cracking observed on the buildings is a result of shrinkage of the masonry and deterioration of the mortar joints due to the age of the buildings. From our observations of the buildings, we believe that they may be approaching the end of their serviceable life.

If you have any questions, please contact my office.

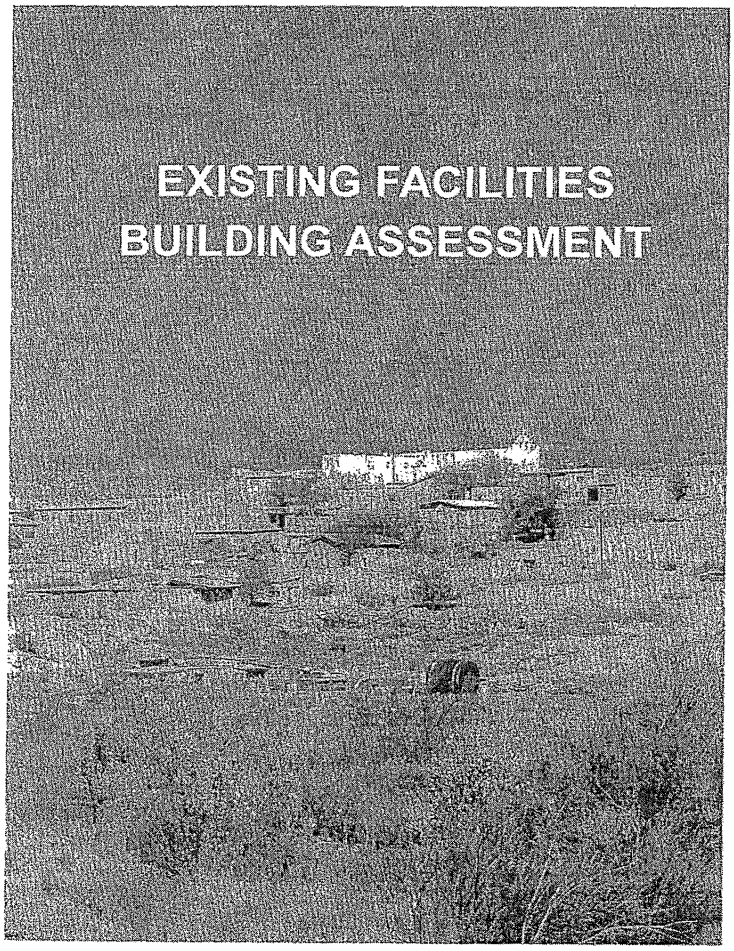
Sincerely,

David H. Sullens, P.E.
Vice President

DHS/lg

Attachment C

LDoE - Education Campus



VIEW OF PUEBLO of LAGUNA

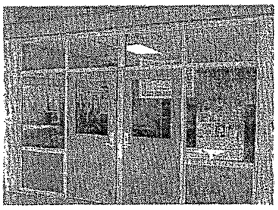
ELEMENTARY K-5

LDoE - Education Campus

EXISTING FACILITIES
BUILDING ASSESSMENT

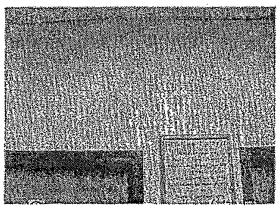
LES SITE VIEW

DESCRIPTION:
- Current 69,643 SQ. FT.
- 17 classrooms
- 6 modular buildings
- Gymnasium
- 2008-2009 SY enrollment 284



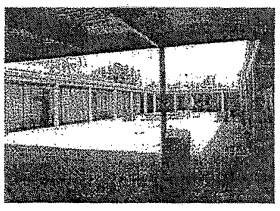
LES SITE "TOO MANY WINDOWS"

DEFICIENCIES
- Poor heating in classrooms
- Poor air ventiation
- Limited storage spaces for school supplies
- Limited to electrical outlet and power source
- Water heaters are exposed inside classrooms
- No overhead projectors
- Need space to grow plants. Heaters are near windows and kill all plants
- Security issues: too much glass, over heats rooms as well
- Need individual office spaces
- Need large nurses' offices
- Need therapy rooms



LES SITE—BUILDING SEPARATION

QUALITIES
- Good cross ventilation
- Day lighting from windows and skylights
- Good classroom size
- Good ceiling heights
- Private restroom and sink



LES SITE—OPEN COURTYARD

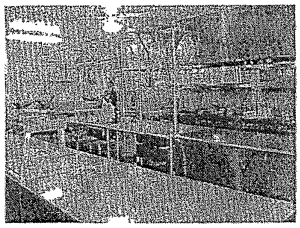
ELEMENTARY K-5

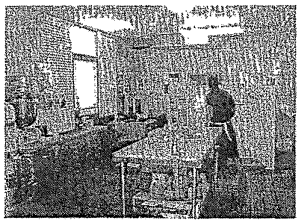
KITCHEN AND SERVING

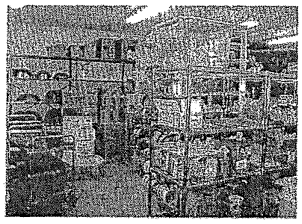
DESCRIPTION:
- Students are on a free lunch program
- Serve average of 274 daily
- Serve breakfast, lunch, and snacks
- Students have lunch in the gym; kitchen staff have to coordinate with gym classes before lunch is served.

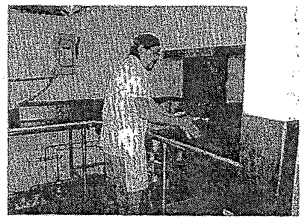
DEFICIENCIES
- No cooling and over heating in main cook line space
- No heating, very cold in winter, rely on cook line to keep warm
- Poor air ventiation
- No condiment station
- No dining cafeteria
- Kitchen services collide with gym classes
- Need seperated laundry room
- No office space: no computer/space or internet for emails and annoucements

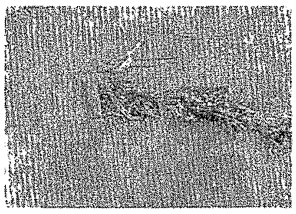
QUALITITES
- Kitchen space is satisfactory
- Kitchen layout
- Dry storage space size
- Kitchen equipment are operational and in favor for the number of children served
- Cooling and freezer units are satisfactory



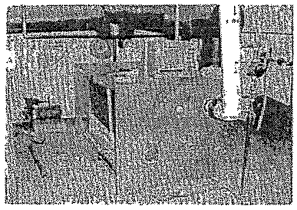




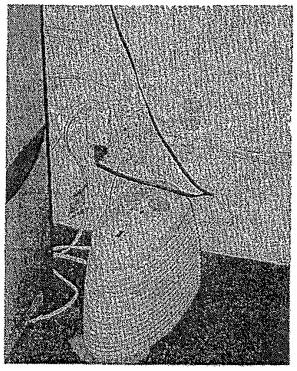




PIPE REPLACEMENT



OLD BOILER



EXPOSED ELECTRICAL

INFRASTRUCTURE & UTILITIES

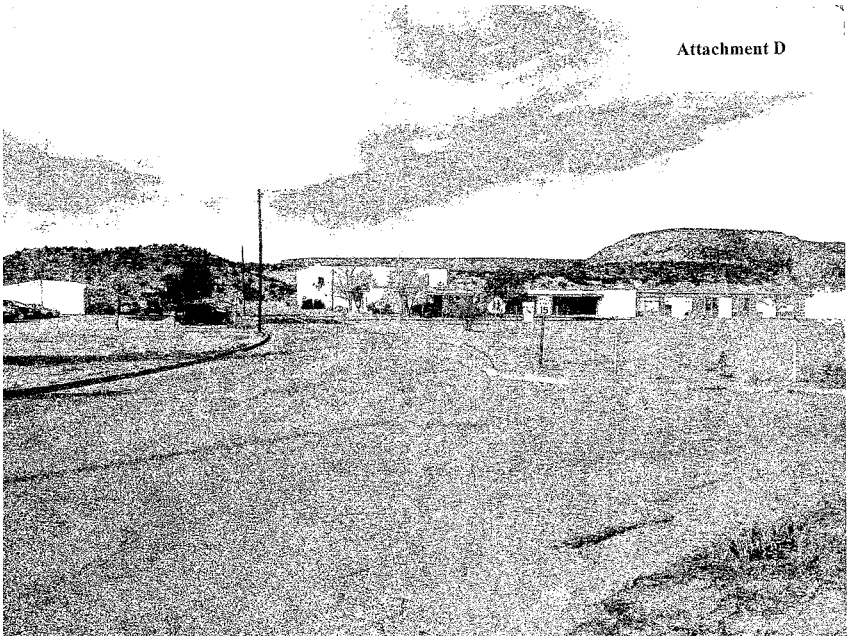
Facilities Management provides day to day maintenance services to all Laguna Department of Education buildings. Most buildings require comprehensive maintenance services due to deteriorated infrastructures and obsolete electrical equipment.

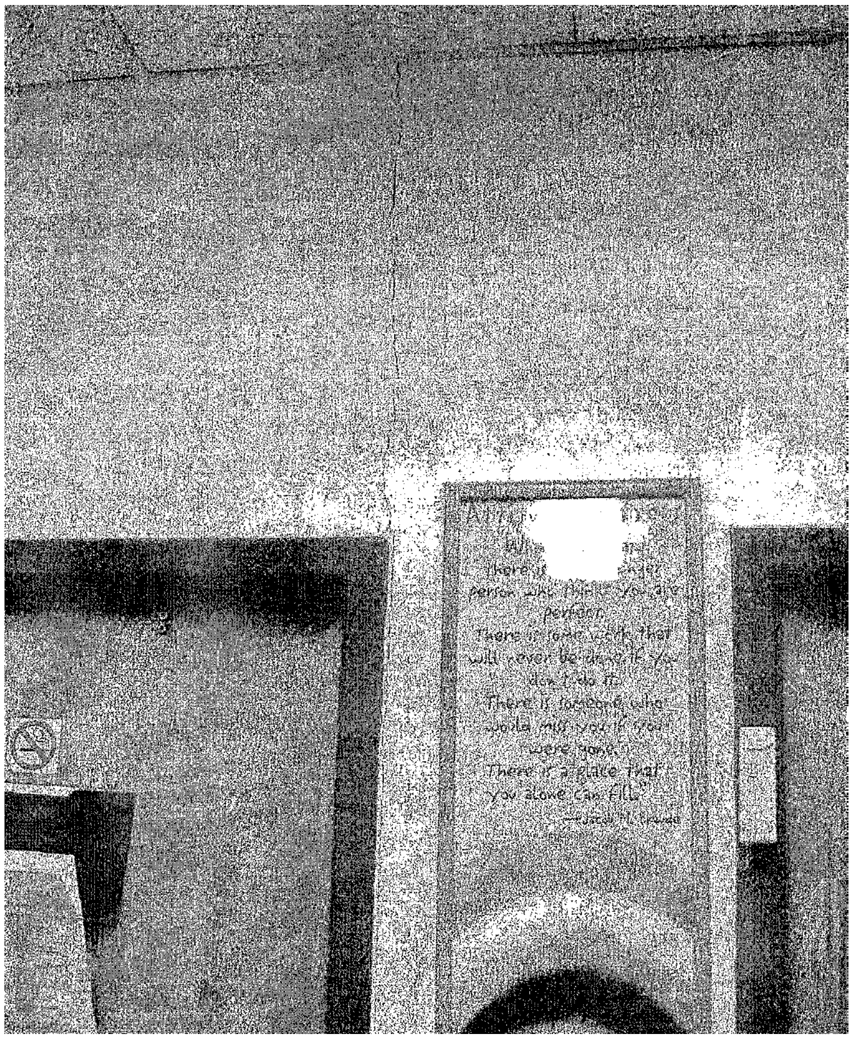
The overall condition of the infrastructure is fair to poor due to the exceeding lifetime of use. There are deteriorated water and sewer lines requiring to be replaced periodically in sections. Many lines have been replaced due to backups from roots growing inside pipes. Most water lines are operational, however water pressure reducers are installed in both the Early Head Start and Elementary School.

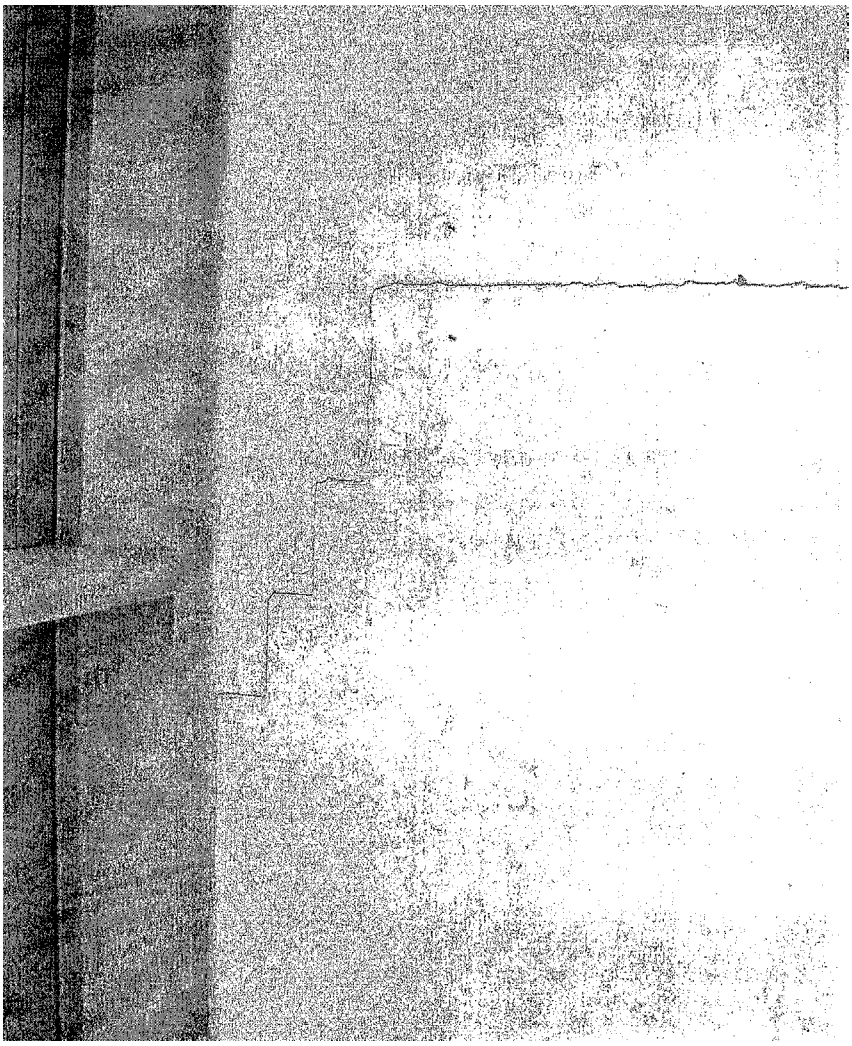
In terms of fire protection, there are four fire hydrants on campus that are not operational, causing a unsafe environment if any fire hazard should start.

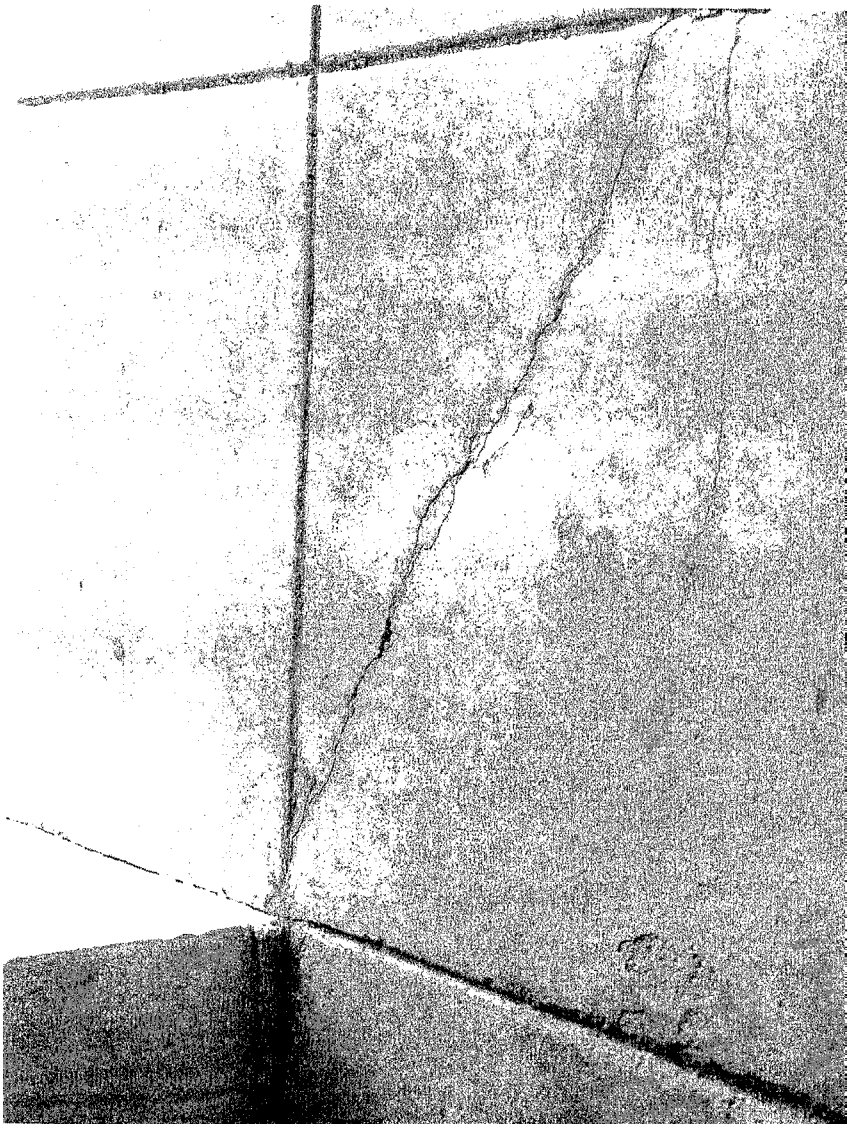
The Elementary school has maximized the power capacity and cannot add any additional circuits. The buildings have exposed electrical wiring in conduits where additional circuits were brought in to meet demand. The elementary school is operational with obsolete electrical equipment; breakers and panels have been repaired and cannot be replaced due to the entire equipment being obsolete. This issue limits curriculum possibilities in education which diminishes student productivity.

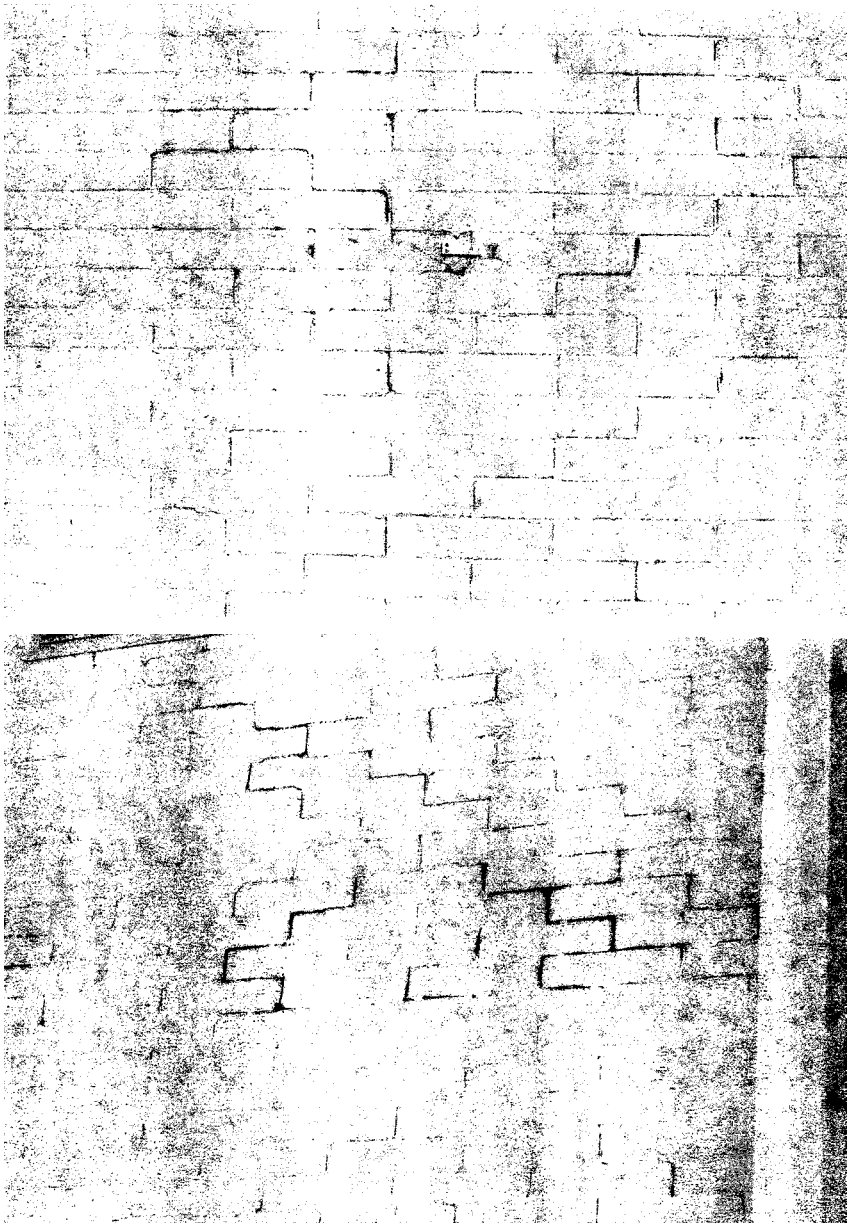
Fortunately, the Facilities Management department provides immediate response. The maintenance routine ensures all facilities to be in working condition for the health and well being of the students and staff.

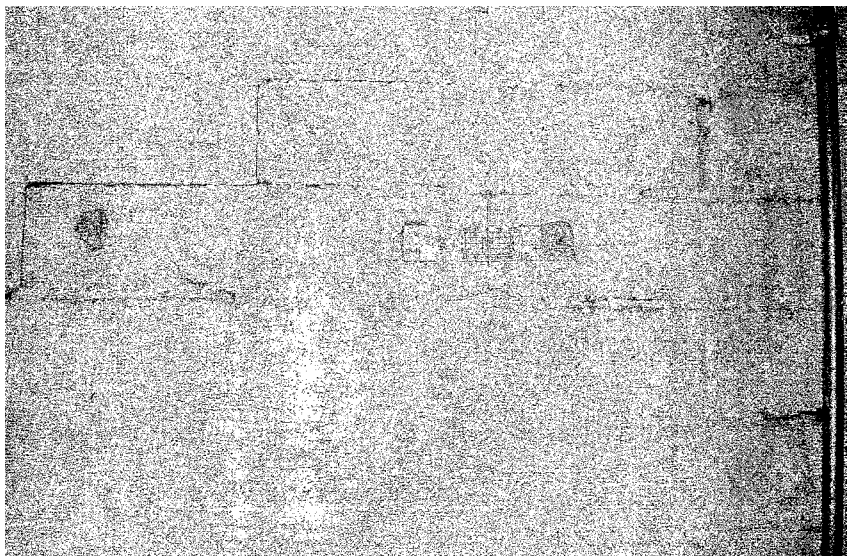

Attachment D

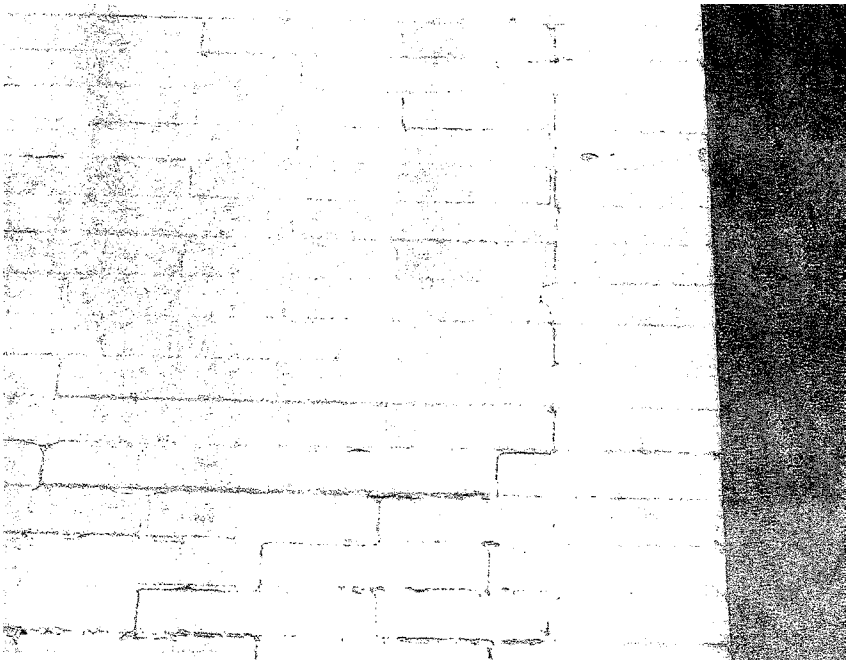

person.
There is someone who
would miss you if you
were gone.
There is a place that
you alone can fill.











Attachment E

P.O. Box 207
Laguna, New Mexico 87026

PUEBLO of LAGUNA
Department of Education

September 2, 2009

Dear Parents/Guardians of Laguna Department of Education Students,

As our commitment in providing educational services to the Pueblo of Laguna, the Laguna Elementary and Middle schools are on a modified schedule until running water is efficiently provided and functional. The elementary school is transporting students home at 12:00 noon and the middle school at 12:30 pm. Students are being served breakfast each morning and lunch prior to going home each day. Please be available to meet your children at the bus since we will have early dismissal.

As you may be aware, we have not had running water available to the Laguna Department of Education schools and campus facilities since last Friday, August 28th. Please be assured that every health and safety precautionary measure possible is in place, within current conditions. Satellite bathrooms have been stationed at each school, being sanitized after each use and serviced on a daily basis. Hand sanitizers, disinfecting hand wipes and water/soap basins are stationed at each bathroom site. Extra drinking water is being issued to the students.

As an option for those parents/guardians wishing to keep their children at home during this particular time period, their child's absence from school is an excused absence. Please make arrangements with your child's principal for any homework assignments:
Laguna Elementary School Principal, Miss Yolanda Batrez
Laguna Middle School Principal, Mr. David Jiron

Please feel free to also contact me, if I may be of assistance.

Thank you very much for your kind patience, understanding and support as we deal with this difficult situation, while providing the best high-quality education for your child/children.

Sincerely,

Dr. Anthony R. Fairbanks, Superintendent
Pueblo of Laguna Department of Education
PO Box 207
Laguna, NM 87026

(Mission Statement)
Hanu He ya Nayuutsi Gunishe

K'awaika Schools	Division of Early Childhood	Partners for Success	Facilities Management
Laguna Elementary School	Preschool Head Start	Higher Education	Laguna Technology Education Center
Laguna Middle School	Early Head Start	Employment & Training	
	Early Intervention	Vocational Rehabilitation	
	Child Care	JOM, GED, One Stop for Native Youth	

PUEBLO of LAGUNA
Department of Education

P.O. Box 207
Laguna, New Mexico 87026

Septeinber 4, 2009

Dear Parents/Guardians of Laguna Department of Education Students,

Thank you for your kind patience, understanding and support of the Laguna Department of Education's administrators, teachers and staff during this past week as we dealt with the difficult water situations in Laguna.

We are happy to report that, currently, we have running water. This water is being utilized for flushing our toilets within the schools and campus facilities. However, we will continue on a modified schedule for this coming Tuesday, September 8th. As we have this past week, the elementary school is transporting students home at 12:00 noon and the middle school at 12:30 pm. Students are being served breakfast each morning and lunch prior to going home each day. Please be available to meet your children at the bus since we will have early dismissal.

This modified schedule will continue until we receive water quality testing results of the water being safe for drinking, hand washing, cleaning and swamp coolers/air conditioning. You will be updated once we receive final notification of the quality of our water. At that point, we will be back within our normal schedules appropriately.

Up until now and continuing forward, please be assured that every health and safety precautionary measure possible is in place, within current conditions. Indoor bathrooms are now being utilized and monitored for effectiveness and safety. Hand sanitizers, disinfecting hand wipes and water/soap basins are stationed at each bathroom site. Extra drinking water is being issued to the students.

Please feel free to contact your child's principal if you have any questions:
Laguna Elementary School Principal, Miss Yolanda-Batrez
Laguna Middle School Principal, Mr. David Jiron

Please feel free to also contact me , if I may be of assistance.

Thank you again. It is an honor to provide the best high-quality education for your child/children.

Sincerely,

Dr. Anthony R. Fairbanks, Superintendent
Pueblo of Laguna Department of Education
PO Box 207
Laguna, NM 87026
Office: (505) 552-6008 / Cell: (505) 331-9739
a.fairbanks@lagunaed.net
www.ldoe.org / www.lagunaedfoundation.org

(Mission Statement)
Hanu He'ya Nejuutsi Gunishe

PUEBLO of LAGUNA
Department of Education

P.O. Box 207
Laguna, New Mexico 87026

September 10, 2009

Dear Parents/Guardians of Laguna Department of Education Students,

Thank you for your kind patience, understanding and support of the Laguna Department of Education's administrators, teachers and staff during the past two weeks, as we have dealt with the difficult water situations in Laguna.

We are happy to report that we have received our internal water quality testing results of the water being safe for drinking, hand washing, cooking, cleaning and swamp coolers/air conditioning. Our toilets within the schools and campus facilities are in full operation.

Effective Friday, September 11, 2009, the Laguna Elementary and Middle Schools will be back on their normal, full day schedules.

As an FYI, Division of Early Childhood (Early Intervention, Early Headstart and Pre-school Headstart) services will be back on their normal schedules on Tuesday, September 15, 2009.

Please be assured that we will continue to monitor the water quality on an on-going basis and have all health/safety procedures in place for your child/children.

Please feel free to contact your child's principal or Early Childhood provider if you have any questions:

Laguna Elementary School Principal, Miss Yolanda Batrez

Laguna Middle School Principal, Mr. David Jiron

Early Intervention.
Early Headstart.
Pre-school Headstart.

Please feel free to also contact me , if I may be of assistance.

Sincerely,

Dr. Anthony R. Fairbanks, Superintendent
Pueblo of Laguna Department of Education
PO Box 207
Laguna, NM 87026

Attachment F

PUEBLO of LAGUNA
Department of Education

P.O. Box 207
Laguna, New Mexico 87026

April 20, 2010

Mr. Emerson Eskeets
Deputy Director
Office of Facilities Management & Construction
Bureau of Indian Affairs
1011 Indian School Rd, NW, Room 335
Albuquerque, NM 87104

RE: Replacement Facility Project for Laguna Elementary School

Dear Mr. Eskeets,

The Pueblo of Laguna and the Laguna Department of Education is pleased to submit our Board and Pueblo of Laguna Council decision regarding the procurement method for completing the design and construction of a replacement facility project at Laguna Elementary School and the decision regarding the ownership of the replacement facility.

Along with this information we are also enclosing the Laguna Department of Education's Resolution No. 2010-414 and the Pueblo of Laguna Tribal Council's Resolution No. 38-10.

We thank you and your staff for your diligence in assisting us to move forward with our efforts to obtain this replacement facility. Please do not hesitate to contact our office should any further information be required.

Sincerely,

Dr. Anthony Fairbanks
Superintendent

Cc: Laguna Department of Education Board
Pueblo of Laguna Governor John Antonio
Mr. Jack Rever, Director of the Bureau of Indian Affairs Office of Facilities, Environmental and Cultural Resources Management
Mr. Jim Hooper, Pueblo of Laguna Chief of Operations

PUEBLO of LAGUNA
Department of Education

BOARD OF EDUCATION
Resolution No. 2010-414

P.O. Box 207
Laguna, New Mexico 87026

Re: Laguna Department of Education recommendation for approval of P.L.100-297 Procurement Method for the Laguna Elementary School Project and the Bureau of Indian Affairs retaining ownership of the existing Laguna Elementary School Facilities.

At a duly called meeting of the Board of Education for the Laguna Department of Education held on the **14th** day of **April,** 2010, the following resolution was adopted.

WHEREAS, the Pueblo of Laguna (POL) created the Laguna Department of Education (LDoE) for educational purposes; and

WHEREAS, the LDoE, in accordance with its Charter, Article IV, Section 1, A. and B. is responsible for securing funding from either public or private sources for educational and related services including the construction, operation, and maintenance of the Pueblo's school facilities; and

WHEREAS, the Bureau of Indian Affairs, Office of Facilities Management and Construction (BIA-OFMC) officially notified the LDoE that funding is available for the pre-planning and planning phases of a replacement facility construction project for Laguna Elementary School; and

WHEREAS, BIA-OFMC has further requested that the POL and the LDoE determine the procurement method for this project and ownership of the existing elementary school facilities; and

NOW THEREFORE BE IT RESOLVED, the LDoE Board recommends to the Pueblo of Laguna Council that the LDoE be approved to be the recipient of project funds in accordance with its Charter, utilizing P.L. 100-297 contract procurement method for this project;

BE, IT FURTHER RESOLVED, that the existing Laguna Elementary School facilities currently owned by the Bureau of Indian Affairs will remain under the ownership of the Bureau of Indian Affairs until further notice by the Pueblo of Laguna.

Jack Ondelacy, Acting President
LDoE Board of Education

LDoE Board Member

ATTEST:

Marilyn Cheromiah, Board Secretary

PUEBLO OF LAGUNA
P.O. BOX 194
LAGUNA, NEW MEXICO 87026

Office of:
The Governor
The Secretary
The Treasurer

PUEBLO OF LAGUNA

Resolution No. 38-10

Re: **Approval of the P.L. 100-297 Procurement Method for funds made available to the Pueblo of Laguna via the Bureau of Indian Affairs for the Laguna Elementary School Project and the Bureau of Indian Affairs retaining ownership of the Replacement Laguna Elementary School Facilities.**

At a duly called meeting of the Pueblo of Laguna Tribal Council held on the 20 day of April, 2010, the following resolution was adopted.

WHEREAS, the Pueblo of Laguna Council identified "Education" as one of its priorities and with this in mind, the Council supports securing funding for a new education campus including a new elementary school; and

WHEREAS, the Pueblo of Laguna Council created the Laguna Department of Education (LDoE) and in accordance with its Charter, Article IV, Section 1, A. and B., LDoE has the responsibility of securing funding from either public or private sources for educational and related services including the construction, operation, and maintenance of the Pueblo's school facilities; and

WHEREAS, the Bureau of Indian Affairs, Office of Facilities Management and Construction (BIA-OFMC) officially notified the Pueblo via correspondence that potential funding is available for pre-planning and planning phases of a replacement facility construction project for Laguna Elementary School; and

WHEREAS, BIA-OFMC has requested that the Pueblo determine the procurement method for this project and also ownership of the existing elementary school facilities; and

WHEREAS, the LDoE reviewed all of the options and is recommending to the Pueblo to utilize a P.L. 100-297 contract procurement method for this project and that the LDoE will be the recipient of this contract and accept and administer the funds for design and construction of a new elementary school; and

WHEREAS, the Pueblo of Laguna Council supports the P.L. 100-297 procurement method and LDoE as the recipient; and

WHEREAS, the Pueblo of Laguna Council supports the BIA retaining ownership of the existing Laguna Elementary School Facilities;

Resolution No. 38-10

NOW, THEREFORE, BE IT RESOLVED, that the Pueblo of Laguna notifies the Bureau of Indian Affairs Office of Facilities Management and Construction that the procurement method will be via P.L. 100-297 contract; and

BE IT FURTHER RESOLVED, that the Laguna Department of Education is authorized to enter into a P.L. 100-297 contract with the Bureau of Indian Affairs and be the recipient of those project funds in accordance with its Charter and the Pueblo of Laguna Council's directions; and

BE IT FURTHER RESOLVED, that the Replacement Laguna Elementary School facilities currently owned by the Bureau of Indian Affairs will remain under the ownership of the Bureau of Indian Affairs until further notice by the Pueblo of Laguna; and

BE IT FURTHER RESOLVED, that the Governor or his designee is directed and authorized to execute any and all documentation, correspondence and transactions to carry out the directives of the Pueblo of Laguna Council as contained in this resolution.

Governor

Council Member

Council Member

ATTEST:

Tribal Secretary

Resolution No. 38-10

CERTIFICATION

The foregoing resolution was enacted upon by the Pueblo of Laguna Council on the 20 day of April, 2010, by a vote of 20 for and 0 opposed, at a duly called meeting at which a quorum of the Council was present.

Governor

ATTEST:

Tribal Secretary

DECISION OF THE PUEBLO OF LAGUNA TRIBAL COUNCIL:

Proposed Project Name: Laguna Elementary School

Project Description: Replacement Academic Facility Construction

1. TRIBAL DECISION: PROJECT MANAGEMENT

☑ We will use Option Number 1: P.L. 100-297 Tribally Controlled School Grants

☐ We will use Option Number 2: P.L. 93-638 Tribal/Federal Contract

☐ We will use Option Number 3: OFMC will complete the design and construction phases of the project

2. TRIBAL DECISION: OWNERSHIP OFTHE REPLACEMENT ACADEMIC FACILITY

☐ We will accept ownership of the replacement facility upon completion of the project Please provide a tribal resolution.

☑ We will not accept ownership of the replacement facility upon completion of the project. Please provide a tribal resolution.

4-21-10

John E. Antonio, Sr., Governor
Pueblo of Laguna

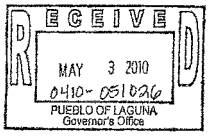
Date

United States Department of the Ir

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 2 0 2010

Attachment G



Honorable John B. Antonio, Sr.
Governor, Pueblo of Laguna
P.O. Box 194
Laguna, New Mexico 87026

Dear Governor Antonio:

Mr. Larry Echo Hawk, Assistant Secretary for Indian Affairs, asked me to review and respond to the information concerning funding for a new elementary school that you provided to him following the All Indian Pueblo Council meeting held in Albuquerque, New Mexico in March of this year.

I discussed the Indian Education Construction program with Assistant Secretary Echo Hawk and he assures you of his concern for the condition of your elementary school as well as all schools in Indian country. The unfortunate fact is that more than 60 Indian Affairs funded schools are in poor condition. The Laguna Elementary School is one of those. Given current budget constraints, Indian Affairs is making every effort to improve the conditions of schools and funds included in the American Recovery and Reinvestment Act (Act) have provided the single largest education construction appropriation to do so. As you may be aware, the funds provided through the Act provided sufficient funds to allow the Improvement and Repair Project for the Laguna Elementary School to be among the highest priority projects for school construction projects.

In recognition of that fact, Indian Affairs has recently agreed to provide the Pueblo of Laguna sufficient funds to accomplish the planning necessary to improve and repair your existing school. While we understand the Pueblo's desire to replace the school, there are not sufficient funds in current or anticipated Indian Affairs budgets to undertake a replacement school construction project.

We are also aware of your request to the Secretary of the Interior to approve your application for an allocation of the Tax Credit Bond Authority provided within the Act. The request is currently under consideration and you can anticipate a response soon. Under current and projected budget constraints, the Pueblo's consideration of the use of the Pueblo's assets to fund the construction of a replacement school is likely the most expeditious method of building a new school campus.

Thank you for the most recent version of the planning documents that you provided the Assistant Secretary. They will be retained in our files for consideration as we move forward in providing an improved school for elementary grades at the Pueblo of Laguna.

If you have further questions, please continue to work with my staff in Albuquerque, and I will in turn keep the Assistant Secretary informed of the status of this effort as we work together to solve this issue.

Sincerely,

John N. Rever, P.E.
Director, Office of Facilities, Environmental,
and Cultural Resources

cc: Assistant Secretary – Indian Affairs Larry Echo Hawk
Deputy Assistant Secretary Del Laverdure
Chief of Staff – Indian Affairs Paul Tsosie
Director (acting) Bureau of Indian Education Bart Stevens
Counselor – Indian Affairs Sequoyah Simermeyer
Deputy Director (OFMC) Emerson Eskeets

Senator UDALL. Thank you, and thanks to both of you.

Dr. Fairbanks, in your testimony you describe a safety first model where you need to use the school's operating funds to fix the safety deficiencies at the schools to ensure that students and staff are safe. Even though you later seek reimbursement for those expenses, you say that this process detracts from your ability to provide quality academic services.

Can you describe the ways that this safety first method of ensuring student safety affects the academic services at your school?

Dr. FAIRBANKS. Yes, sir, Mr. Chairman. The purpose of our role within the leadership in Laguna is that we do take safety very seriously. However, we are very limited with facility construction or maintenance funds. We do not receive enough in order to meet all the needs in safety concerns of our school. As I stated within my testimony, we have 41 deficiencies, well over $12 million.

But if there is anything that we can do in order to fund an appropriate safety measure, we will do that. However, those funds need to come out of our general fund or our administrative funds, and that in turn does detract from our academic services that we are able to invest in also. So it is a balancing act and of course it is a matter of staying within our appropriated budgets.

Senator UDALL. And clearly you want to give the top academic experience to your students, but because of these safety issues you are having to pull money away from that academic side. And that is obviously unacceptable.

You describe the current system as reactive, rather than proactive. What recommendations do you have for making the system more proactive?

Dr. FAIRBANKS. Mr. Chairman, thank you very much. I believe the system needs to be streamlined. And again, if we can plan and anticipate any potential problems or hazards to our students throughout the system itself I think would be very appropriate in addressing all of these concerns, again being proactive rather than reactive.

Senator UDALL. Thank you.

Mr. Roman Nose, I agree with you that in order to address many of the safety issues related to gangs, to violence, bullying and substance abuse we need more involvement from tribal communities. In what ways do you think tribal communities and the schools could partner to address some of the safety issues related to violence within their communities?

Mr. ROMAN NOSE. I think there are several ways. One that come to mind as a school board member of Riverside Indian School in Anadarko, Oklahoma, I would like to see more training with school board members and make this information more available to the public and to parents. It is a very difficult system to get information to parents, especially if you reside in a residential school. But I think more outreach to parents and tribal officials, school board members needs to be in order.

These are very complicated issues. I think the BIA needs tribal input in all areas.

Senator UDALL. Thank you.

Before I close the hearing, I want to just make two comments. As Chairman Dorgan said, the reporting on these issues out in New Mexico and in other places I think has been very helpful in terms of moving us forward, exposing the problems that are out there, the deficiencies, the safety issues, and helping all of us address these and move down the road.

And secondly, I want to echo what Secretary Echo Hawk said. It seems to me the key, I mean both of these witnesses here and the previous witnesses were focusing on education, but the real key is in healthy families in these native communities. And we have to get employment into these communities. If you have communities,

which we do on the Navajo Reservation, with unemployment at 50 percent or in some other pueblo communities higher than that, 60 percent and 70 percent unemployment, I don't see how you can have stable families.

And so one of the policy efforts has to be how do we get capital, how do we get investment how do we get economic development within these native communities so that people in these communities can get a good job and support their families. It seems to me the core of this in terms of healthy families is people being able to get a job.

We recently had a hearing and Chairman Dorgan brought up one of Senator Inouye's bills that talked about setting up a bank or an organization to push capital and investment into native communities. I think that is part of this issue also that we need to address.

So with that, I thank both of the witnesses for being here.

Secretary Echo Hawk, thank you for staying over and hearing these witnesses. You know your message is heard when the Secretary stays here and we appreciate your support staff being here.

With that, I will adjourn the hearing. The hearing is adjourned.

[Whereupon, at 11:10 a.m., the Committee was adjourned.]

APPENDIX

PREPARED STATEMENT OF FAYE BLUEEYES, PROGRAM DIRECTOR, DZILTH-NA-O-DITH-HLE COMMUNITY GRANT SCHOOL, NAVAJO NATION

INTRODUCTION. We commend the Committee for focusing attention on safety issues at BIE school campuses throughout Indian Country. Those of us who must deal – on a daily basis – with situations that pose hazards to our students and staff welcome the spotlight you are placing on safety and urge you to keep these issues in full public view until all of these disgraceful problems are corrected.

It is time to stop the practice of merely identifying safety issues and then placing them on the "backlog" of matters that might be addressed at some undetermined time in the future. Adding a safety issue to the "backlog" is not an end in itself. It is the responsibility of the United States to fund the needed repairs and eliminate the hazardous situations.

THE "DZ" SCHOOL. Since our school's Navajo name is difficult for some to pronounce, it is often called the "DZ" School. Our school was opened for occupancy in 1968. Since July 1, 2005, it has been operated through a Tribally Controlled Schools Act grant by an elected all-Navajo School Board. There are 200 Navajo students in our K-8 academic program, and 51 students in our dormitories. Our school campus is located on the Navajo Reservation near the town of Bloomfield, New Mexico.

WATER AND SEWAGE ISSUES. The water and sewer pipes serving our buildings have not been replaced since the School opened more than 40 years ago. The old **cast iron water pipes** are badly corroded, rusted and filled with sediment. This prevents them from supplying appropriate water pressure and contaminates the water they do supply. The low water pressure also means that our fire safety sprinkler system is compromised; even if we are able to replace the fire safety system (see below) we question whether it could not function properly due to low water pressure.

Our **sewage disposal system** presents a sickening situation – literally. The old terra cotta sewage pipes (part of the original construction) that run under the school and dormitories continually spring leaks. This causes horrible sewage odors to emanate into the buildings – which make students and staff ill – and growing mold compounds the problem. The only remedial action we can take is to put clamps on the leaks as they are discovered. This is but a "band-aid" approach. Very soon, our pipes will consist of nothing but clamps.

FIRE SAFETY SYSTEM. The fire safety system throughout our campus is outdated and must be replaced. Not only do the sprinklers leak (all we can do is patch the leaks), but our low water pressure level compromises the system's effectiveness. We have called this matter to the attention of BIA's Office of Facility Management and Construction (OFMC).

Earlier this month, an electrical contractor assessed our fire safety system. (The May 6, 2010, report from H.A. Electric Plus Inc. of Aztec, N.M. is attached.) Problems were discovered in ten of our buildings. Notably, the contractor reported that the main fire alarm panels (pyrotronics) are obsolete and not even made any more.

The contractor estimated that the cost of replacing the fire safety system campus-wide would be approximately $186,000, with an additional $11,280 needed for engineered shop/as-built drawings.

Even if we are able to get a new fire safety system installed, we believe that in order for it to work properly, the low water pressure problem must also be corrected. Otherwise, we fear that our old, corroded pipes will not be able to provide the needed pressure to supply the appropriate level of water to the sprinklers.

This is such a serious safety issue that we hope the needed replacement system will actually be funded, not merely be placed on the "backlog" and forgotten.

ELECTRICAL ISSUES. Our electrical system issues are multi-faceted and create a true domino effect. The school's electrical transformer is outdated and needs to be replaced as it cannot provide the needed amperage level. Without a transformer up-grade, we would not have sufficient amperage to –

- Operate a new Fire Safety System
- Supply power needed to operate classroom and administrative staff computers and other electrical equipment (copiers, over-head projectors, etc.)
- Properly supply power to our natural gas-fueled boilers which supply building heat. Thermostats which are supposed to regulate internal room temperatures no longer work; thus, internal building temperatures often reach stifling levels.

GAS LINE SCARE. In early November 2009, we found that all seven of our gas meters were leaking and the gas had to be turned off. Even more frightening was the discovery of a major leak in the underground gas line which could have caused an explosion at the school. We had to close the school for two weeks so the gas company could do the extensive excavation work needed to make repairs. It was only by good fortune that a catastrophe was avoided.

We will be sending the repair bill – in excess of $200,000 – to the BIA with a request for reimbursement. Since our school buildings are owned by the United States, we believe BIA is responsible for this cost. Any assistance you can provide to assure the agency pays this bill will be greatly appreciated.

CONCLUSION. The problems we describe can only be solved if the United States fulfills its responsibility for operation of the BIE school system by properly funding the Facilities Improvement and Repair (FI&R) budget, and supplying the needed funding level for our on-going Facilities Operations and Maintenance programs. As you know, the amount we get for Facilities O&M is less than 50% of the amount needed, according to the BIE's own formula.

We must look to the Congress to supply the resources needed to correct these serious issues. Would you want to work in or have your children attend school in buildings with the conditions we describe?

Thank you again for focusing attention on BIE school safety issues.

Attachment

NM LIC. #80941
NM D.O.L.0075020050719
NM EE-98J 30095

RAYMOND(ANDY)BERRY
LEVEL II # 128933
P.O. BOX 1914
Aztec, NM 87410

H.A. ELECTRIC PLUS INC.

MAY 6, 2010

FAY BLUEEYES
PROGRAM DIRECTOR
DZITH-NA-O-DITH-HTLE SCHOOL
HUERFANO NM
PH-632-1697 CELL 960-0355
CC. LORENZO KALLECO

RE:FIRE ALARM ASSESSMENT AT DZ GRANT SCHOOL

THE FOLLOWING OBSERVATIONS OF THE FIRE ALARM SYSTEM WERE NOTED AT OUR VISIT TO DZ GRANT SCHOOL ON MAY 5, 2010.

BLDG- 4001/4002/4003-TROUBLE IN SYSTEM,ZONE UNPLUGGED,ANTIQUATED,UNRELIABLE,SPRINKLER SYSTEM VALVE CLOSED. NO STRUCTURE PROTECTION, NO YEARLY REQUIRED NFPA FUNCTIONAL TESTS.
BLDG-4006/4007-TROUBLE IN SYSTEM,ANTIQUATED,UNRELIABLE, NEED TO HAVE HORN STROBES IN ALL SLEEPING AREAS. NO ANNUAL TESTS.
BLDG-4004-FIRE ALARM PANEL OK-NO GYM SMOKE COVERAGE NO TESTING.
BLDG-4005 CAFETERIA-TROUBLES IN SYSTEM,ANTIQUATED, UNRELIABLE, PANEL IN POOR CONDITION, ZONES UNPLUGGED.NO ANNUAL TESTING.
BLDG-4305/4306-THESE FIRE ALARM PANEL HAVE TROUBLE IN THEM, THEY MAY BE ABLE TO BE USED IF THEY ARE REPAIRABLE.
BLDG-4008 4 TROUBLES WITH GROUND FAULT,UNRELIABLE.

THE MAIN FIRE ALARM PANELS (PYROTRONICS) ARE OBSOLETE, AND NOT MADE ANYMORE. THE NOTIFIER PANELS ARE ZONED. WE WOULD RECOMMEND ADDRESSABLE SYSTEMS.
A PROJECTED COST TO REPLACE ALL OF YOUR FIRE ALARM EQUIPMENT, DEPENDING ON ENGINEERING ASSESSMENT AND REQUIREMENTS, IS AS FOLLOWS.

NEW FIRE-LITE ADDRESSABLE PANELS WITH ADDRESSABLE DEVICES FOR BLDGS. 4003, (WILL COVER BLDGS 4001/4002.) BLDG. 4006, BLDG. 4007, BLDG. 4005, BLDG 4008. BLDGS 4305/4306 WILL BE REPLACED WITH FIRE-LITE ZONED PANELS WITH DEVICES.

THIS QUOTE IS AND ESTIMATE ONLY PROVIDING WE USE EXISTING PATHWAYS, CONDUIT, BOXES. THIS QUOTE ALSO PROVIDES FOR THE DEMO. OF THE EXISTING EQUIPMENT. THIS QUOTE ALSO PROVIDES FOR MINOR ADDITIONAL CONDUIT INSTALLATION IN THE MECHANICAL ROOMS.

FIRE ALARM REPLACEMENT CAMPUS WIDE_____$186,000.00

ENGINEERED SHOP/ASBUILT DRAWINGS_____$11,280.00

AS WE STATED EARLIER, THIS IS A ROUGH ESTIMATE, WE WOULD CERTAINLY LIKE TO BE THE PROVIDER OF THIS SERVICE TO YOU, HOWEVER WE REALIZE THAT THE MAGNITUDE OF THIS PROJECT WOULD PROBABLY REQUIRE A BID PROCESS.

WE ARE LOCAL AND RELIABLE, AND CAN DO THIS PROJECT. WE INSTALLED NEW FIRE ALARM SYSTEMS IN ALL OF FARMINGTONS SCHOOLS. AND HAVE JUST COMPLETED THE NEW SCHOOL AT BECLABITO FOR THE BIA.

WE WOULD VERY MUCH LIKE TO BID ON THIS PROJECT IF AND WHEN IT COMES OUT. PLEASE KEEP US IN MINE.

THANK YOU,

ANDY BERRY
H.A.ELECTRIC PLUS INC.

PREPARED STATEMENT OF CHARLES L. JAYNES, FORMER CHIEF OF SAFETY AND RISK MANAGEMENT, BUREAU OF INDIAN AFFAIRS

I wish to thank the Committee for the opportunity to testify on Indian school safety. For twenty-six years, I had the privilege to serve as Chief of Safety and Risk Management for the Bureau of Indian Affairs. During my tenure at BIA we were able to effect many changes to enhance the safety of Indian children in schools. The first of those major accomplishments was to adopt national consensus building safety codes for all schools where none had existed previously. Another major step was to develop and implement a policy requiring that all new school construction include fire protection automatic sprinkler systems. The fire protection sprinkler requirement was a ground breaking accomplishment. Today that requirement is more stringent than requirements for public schools nation-wide.

Education in Indian Country presents many challenges that are not faced by most public schools in America. Unlike public schools, a majority Indian schools are located in remote reservation areas that are not served by conventional infrastructure. Most Indian communities lack professional fire protection, emergency medical services and other community based services that are available to most American communities. This means that many Indian communities have no mutual aid from surrounding jurisdictions and may be from tens of minutes to an hour away from receiving emergency assistance. The remoteness factor causes a significant elevation in the risk assessment for Indian children attending reservation schools.

There will be nothing in my testimony today that is new or unknown to the Bureau of Indian Affairs. Over the past twenty or so years, there have been numerous reports by the Department of the Interior Inspector General citing deficiencies in Indian school safety. Additionally, there are internal reports issued by BIA task groups, the Department of the Interior Safety Office, and the BIA Division of Safety and Risk Management. All of these reports should be available to the Committee for your review and consideration from the Department of the Interior and the Bureau of Indian Affairs.

I will attempt to group items in my testimony in order of potential risk posed by deficiencies in Indian schools with the highest risk being listed first. I hope that the

following testimony will be helpful to the committee and welcome the opportunity to answer any questions that you may have.

Existing reports indicate that as much as 40% of fire alarm systems in Indian schools are not at full operational capability. This calls into question whether school children could be evacuated in the case of an emergency on any given day.

Many Indian schools are not being inspected for safety on an annual basis and abatement of safety hazards is not being accomplished as required in Federal Regulations. This failure means that the Bureau of Indian Affairs and the Bureau of Indian Education have incomplete data to identify the risks for children attending Indian schools. No one in government is held accountable for accomplishing the required inspections and abatement of hazards in Indian schools.

Funding is not being requested by government agencies to correct the known safety and health deficiencies in Indian schools and as I previously stated there are deficiencies existing in schools which are not known due to the lack of inspections.

There is and has been a general statement of concern for the safety and health of children attending Indian schools by the responsible government agencies. However, there has been a lack of action by those same agencies to assure that safe and healthful conditions are present in Indian schools.

Below is a list that details four major areas which contribute hazards affecting the safety and health of children attending Indian schools.

Fire Alarm Systems

At any given time up to 40% of fire alarm systems in Indian schools are either inoperative or experience some form of system failure. A study conducted by the BIA's Division of Safety and Risk Management found that many of the failed alarm systems were antiquated and that parts, components and service were no longer available for the dated systems. In addition, the study found that newer systems were overly complex and could not be maintained by the local maintenance staff at school locations. The national codes require that a functioning manual fire alarm system be provided in all education occupancies and an automatic detection system be provided in residential occupancies such as dormitories. With the advent of microprocessors and advanced electronics many manufacturers have produced very complicated fire alarm systems In addition to requiring a high level of technical expertise for maintenance these new systems are very costly. The BIA spends from $20,000 to $40,000 on average for fire alarm systems in new construction. These systems provide addressable access for system diagnostics, immediate notification to emergency services and other enhancements to improve reliability and rapid response by fire, EMS and public safety organizations. These systems serve an important function if the facility is located in Arlington, Virginia, Phoenix, Arizona or Rapid City, South Dakota because those communities have the available infrastructure to respond. I have however questioned the wisdom of purchasing such systems where the alarm system transmits a signal to a non-existent fire department. The addressable diagnostic function is of little value to maintenance personnel who lack an understanding of microprocessor technology and have not had sufficient training to utilize the systems diagnostic functions. These issues are compounded when an Indian school is a boarding facility. The BIA is one of few, if not the only education system that boards elementary age school children. Elementary age children are very difficult to arouse from sleep and once awake, they tend to be confused and disoriented. Early detection of smoke and fire is an essential life saving function for small children.

My assessment of the value of fire alarm systems in Indian schools has always led me to the conclusion that the system should provide immediate notification of an emergency to the staff and students of schools so that they could evacuate the facility and get to a point of safety without delay. A system costing $40,000 can not accomplish this task if it is not functioning properly and can not be maintained. Most all manufacturers of fire alarm systems offer a simple alarm system that meets code requirements. These simple systems cost in the range of $5000 to $10,000 and are easily maintained with a minimum amount for training for local personnel. The important consideration is that systems must be reliable, for a system that is inoperable provides a sense of false security to the staff and students.

Emphasis On Safety

I have always disliked the term "Risk Management" when it applies to the safety of children in schools. I have always believed that a policy of eliminating risk was the proper philosophy. Most organizations with an effective safety program have adopted this view of risk. Placing the safety function at an organizational level away

from competing or conflicting functions is central to having an effective safety program. The commonly used phrase "Safety First" embodies this view. Throughout the 1990's the BIA safety organization reported to the Director of Administration. An internal task force report by BIA found that this was the proper placement of the function. That same report warned that placing the safety function under facility management, environmental quality or personnel management could diminish the effectiveness of safety due to conflicting or competing interests. In or about 2005, the Bureau underwent a reorganization that placed safety within a new office titled " Office of Facility Management, Environmental and Cultural Affairs". Note that there was no mention of safety in the organizations title. This action was interpreted by many that safety was not a priority with BIA. The basic OSHA Act requires that the safety program be placed high enough in an organization to assure that proper staffing and other resources are available to effectively secure the proper level of safety for employees and the public. In the case of the Federal government, the regulations (see 29 CRF 1960) state that the safety program should be at the level of Assistant Secretary. When the safety function is a priority to executive management, the rest of the organization tends to place more emphasis on operating safely and eliminating risk.

The BIA has developed a comprehensive data system to track safety inspection findings, monitor abatement of safety hazards and provide a mechanism to fund correction of deficiencies. The system is a major achievement and is the most comprehensive system I have seen in thirty plus years of professional safety work. The system however, can not perform the inspections, develop abatement plans and request funds. These functions require human effort. Since 1995, the level of resources available for safety have diminished at a steady pace. Safety positions at the headquarters level and at the regional office have been vacant for years. Additionally, officials in charge of schools have not been held accountable for developing safety abatement plans. This means that a system costing millions of dollars is ineffective because there is no input at some locations and where deficiencies are identified, abatement plans are not developed and entered to address correction of the identified hazards. Officials at all levels of the organization should be held accountable if safety hazards are to be eliminated.

Elaborate School Designs

Schools have one simple function; to educate youth in an effective manner. Indian schools have fallen victim to a trend being faced by school construction nation-wide. Many times, school designs become a show place for architectural talent. BIA has built schools that are shaped like buffalo, eagle wings and a variety of other designs. Many of these designs incorporate building systems that are difficult to maintain and are very costly. Some of these design features include hallways configured in an elliptical arc or similar unusual configuration. Roof designs which do not contribute to the function of the building but are purely aesthetic are common. These various design features can double the initial construction costs of schools but more importantly make the facility very difficult to maintain. These maintenance issues often contribute safety hazards once the schools come online. Water leaking from roofs into electrical and fire alarm systems is a common observation cited in safety reports. Heating, ventilation and airconditioning systems in complex designs are harder to maintain which effects fire alarm operation.

Design firms have a vested interested in elaborate designs. The design fees collected (usually 6%) are based upon the cost estimate for construction. Therefore, the more a school costs to build, the more money the design firm collects. Indian tribes may wait years for their school project to be funded for construction and subsequently they are frequently taken advantage of by project designers. Not only does this method increase the initial cost of a school, but it also negatively impacts the maintenance of the facility and subsequently increases the safety issues once the facility is occupied and used. A simple, functional design is cost effective, easy to maintain and mitigates risk by its very nature.

School Site Selection

A large number of Indian schools are located within the Southwestern United States. The Southwest region of the country is noted for its complex geology. The geology and soil conditions are very important when selecting a building site for schools. During the last twenty or thirty years Indian Schools have been plagued by structural issues relating to differential settlement of the structures. This settlement is demonstrated by cracks in walls, foundation failure. The BIA has spent millions of dollars addressing structural distress in Indian schools. These issues have

been cited in numerous Inspector General Reports and yet the Bureau continues to build schools in areas where the geology is known to be unstable. A recent example of this involves the new Ft. Wingate High School. This project was build very close to the site of the existing high school. The school site is located on an unstable geologic formation that is over one hundred feet deep. The old Ft. Wingate high School experienced constant structural distress over its life since the 1960s and the Bureau spent significant resources trying to stabilize that structure. The original buildings were built on concrete piers drilled some forty feet deep. The new high school is built on the same basic geologic formation and engineered fill of several feet was provided to offer a stabilized base for the structure. This fill material was placed upon an unstable geologic formation some hundred feet thick. There was documentation raising the geologic issues before the new school was built but the construction went forward. As time progresses, one can expect that the new school will experience safety problems related to differential settlement. Similar problems are well documented in BIA files for Sanostee School, Chinle Boarding School, Alamo Community School and many others.

School site selection should involve not only traditional soils analysis but a stratigraphic review by a qualified geologist to assure that a site is suitable for school construction. This simple action could result in elimination of structural hazards as well as significant costs savings. In locations where unstable soils and questionable geology are unavoidable, there are known techniques to combat the effects of differential settlement. While these techniques may have a large front end cost, they are considered economical over the life span of a building.

PREPARED STATEMENT OF THE STANDING ROCK SIOUX TRIBE

Councilman Milton Brown Otter: *"Indian and non-Indian—The schools are the backbone of ALL communities because without the schools there would be NO community."*

Thank you for addressing the responsibility for the safety of our students in Tribal Grant Schools. Our Reservation spans across North and South Dakota encompassing 2.3 million acres, comparable to the size of the state of Connecticut. We have nine schools within the boundaries of our reservation; five public schools, one private school, and three tribal grant schools. Our largest Tribal Grant School is the Standing Rock Community School located in Fort Yates, North Dakota, serves grades Kindergarten to twelve with an enrollment of 863. The next largest grant school is the Sitting Bull School located in Little Eagle, South Dakota, serves grades Kindergarten to eight with an enrollment of 85. Our smallest grant school is the Rock Creek Grant School located in Bullhead, South Dakota, serves Kindergarten to eight with an enrollment of 65.

In this testimony we will address the critical safety needs of these three schools in three areas, (1) student safety with regards to violence, facility safety with regards to (2) physical security and (3) maintenance and repair. We will also address the "breaks" in the processes, both BIE and Grant School, that contribute to many of these issues being reoccurring.

Student Safety with Regards to Violence

For Sitting Bull School and Rock Creek Grant School the internal violence takes on a form that many of us "cringe" at even the thought of but for these children, suicide is a reality. In the last school year only four behavioral incidents were reported in Native American Student Information System (NASIS) and that is not uncommon or uncharacteristically low. However one of these schools suffered the loss of one child taking his life and 5 attempts by others. These are violent acts, self inflicted by our students and need to be addressed. Where is the safety of the children from themselves being addressed? *Break in Process.*

For the Standing Rock Community School the internal negative behavioral problems, data wise, outweigh the external, not to say the external does not contribute or is not the direct cause of the internal negative behavior. Some statistics from NASIS. . .

Standing Rock High School which services grades 9 through 12 had *356* Negative Behavioral Reports in 2009–2010:

22 were Drug or Alcohol related.
88 directly or indirectly involved violence.

Standing Rock Middle School which services grades 6 through 8 had *956* Negative Behavioral Reports in 2009–2010:

22 were Drug or Alcohol related.
124 directly or indirectly involved violence.

Standing Rock Elementary School, grades Kindergarten through 8 had *291* Negative Behavioral Reports in 2009–2010:

4 were Tobacco related.
160 directly or indirectly involved violence.

Recommendations are being made in this testimony to address the key safety issues with regards to violence by:

- Even non-violent and/or drug related negative behavioral incidents affect the learning of others. Adequate support staff to address and deter all negative behavior is needed
    - A counselor for each school
    - Adequate Security ex. Resource Officer for each school
    - Adequate hall monitors
- There is a need to construct a student dormitory (student housing) on the Standing Rock Reservation. The Standing Rock Community School has identified this as a need to house homeless students and to serve students due to the family dysfunction and social conditions.
- An MOA or MOU documenting and committing collaboration and coordination of BIA Police and BIE Schools services to assure safe and protected school zones.

Facility Safety with Regards to Physical Security

Security of School Grounds and Police Response Time to External Attacks

Break-ins on school grounds have been emotionally crushing and costly occurrences at our grant schools. This last school year there were two break-ins at Sitting Bull School that resulted in over $26,000 worth of damage. Currently, Sitting Bull School has no surveillance cameras or security system in place. Standing Rock and Rock Creek do have surveillance cameras however they are outdated inadequate in number. As a result our schools are still very vulnerable. There is potential for greater harm to be done. *Break in Process.*

There was a violent incident at Sitting Bull School. The authorities were called, immediate action was needed, Police did not arrive until the next day. The Standing Rock Sioux Reservation is protected by BIA police—BIE and BIA are entities of the Department of Interior. *Break in Process.*

Recommendations for Facility Safety with Regards to Physical Security

- Our three tribal grant schools all need security fences throughout school grounds that includes a gate system for entrance of school grounds.
- Sitting Bull School needs locking exterior windows throughout school—they currently have to use a piece of wood to lock the windows in every classroom and offices.
- All three schools need new surveillance and security systems.
- An MOA or MOU documenting and committing collaboration and coordination of BIA Police and BIE Schools services to assure safe and protected school zones.
- There is a need to construct a student dormitory (student housing) on the Standing Rock Reservation. The Standing Rock Community School has identified this as a need to house home-

less students and to serve students due to the family dysfunction and social conditions.

Facility Safety with Regards to Maintenance and Repair

There are deficiencies at our three grant schools. This testimony references reports including "Notice of Unsafe and Unhealthful Working Conditions Reports; Backlog Deficiency Reports" and "Unofficial lists" provided by the administration of the schools. The lists go on and on and have gone on and on for years. Rock Creek and Standing Rock could very well qualify as providing the DEFINITION of the BIE "band-aid" approach to facilities problems. The Rock Creek Grant School must be replaced. The original school was built in 1912 with additions and renovations made throughout the years to accommodate facilities deficiencies and student growth. The original building serves as the 'hub' of the school with additions of classrooms and a multi-purpose room serving as the kitchen, dining area and gym. There are also two portable classrooms that house the kindergarten and first grade students and the culture program. As the Bureau of Indian Affairs does not have a school construction priority list, what is the process for the school to access funding for building a new school.

For Standing Rock, who is in the middle of a MAJOR construction overhaul, the amount of time and resources taken to address the deficiencies reported in the annual "Notice of Unsafe and Unhealthful Working Conditions Reports" and "Backlog Deficiency Reports," they could have built a new school. The funding for the overhaul however did not come from BIE, though the recommendations and required improvements did. The construction was funded by 2009 American Recovery and Reinvestment Act (ARRA) funds. Without the ARRA funds, where would the funding have come from?

Sitting Bull School is a perfect example of not having CATASTROPHIC repairs and needs in terms of crumbling buildings, but a laundry list of minor problems just waiting to explode:

- Boiler Problems—Well documented, a replacement boiler was needed 5 years ago. All of which is eligible for emergency funding but the school has not received. The school does not have the money for a replacement. The boiler went out twice this last year.
- Sewer backups throughout the year, system needs to be replaced.
- Operating on one Boiler throughout the year, advised BIE but no actions have been taken to date. Must be repaired or replaced.
- Fire system/sprinklers, school system is very old, need updated system installed. Water Pull Stations are very old, need upgrading.
- Water Heater system is very old and needs upgrading.
- Kitchen Appliances are very old.
- Sprinkler system for stoves is very old, the ventilation system is dangerous, all need upgrading or replacement in these areas.
- Gym lights are very old and can fall anytime now would injure anyone who is standing underneath them if this happens.
- Bleachers in gym are very old and falling apart, this situation presents a danger to our students.
- Playground equipment is very old which makes them a hazard for our students, some equipment is still being used from the old school from the 60's and 70's.
- Propane tank regulators, these needs to be upgraded by 2012, safety hazard for whole school system.

- School Space—The school was awarded a housing unit (double wide) to accommodate overcrowding. Although numerous attempts have been made to get the unit—all is documented. The school was awarded the unit 4 to 5 years ago but has not received it to date.

On annual basis the Office of Facility Management, Great Plains Regional Office, completes safety inspections and the Notice of Unsafe or Unhealthful Working Conditions Reports (Safety Reports). There are numerous deficiencies cited. In 2008, the Rock Creek Grant School had 57 deficiencies, the Sitting Bull School had 50 deficiencies, and the Standing Rock Community School had 256 deficiencies. In the most recent safety inspection for the Standing Rock Schools completed in July of 2009, there were 230 items identified that keyed the school buildings unsafe and violating safety codes. Forty Three percent of the items were "Repeats" meaning they were identified last year. Forty-eight percent were identified as Serious Code and Law Violations and ten percent of those will take at least 6 months to correct. The schools are required to complete and submit abatement plans for the deficiencies that are not corrected in thirty days; however, there is no or inadequate funding to correct the deficiencies. *Break in process.*

The bottom line is minor problems become major problems if not addressed immediately and correctly. This hearing is about BIE School Safety making the grade. A boiler breaks and needs repair so a school can have heat so the children can go to school. On Standing Rock, not only is heat a necessity for the classroom to be functional for the learning of our students, heat is a necessity for life. This past year the temperature dropped to 35 degrees below zero. . .several times. If you have no boiler, you have no heat, you have no heat you have no school, you have no school, you have no learning. A safe learning environment fosters just that. . .learning. An unsafe learning environment promotes and even forces absenteeism, lack of pride in school and self, and worse of all—loss of learning.

Recommendations for Facility Safety With Regards to Maintenance and Repair

CLARIFY WHERE SCHOOLS GO FOR WHAT? There is a major problem with the distribution of funds at the very top. BIE receives and distributes Operation and Maintenance funds while BIA receives and distributes MR, FINR and Constructions funds. This causes major confusion for schools. Where do they go to address major problems versus minor problems or when minor problems start minor and turn major, or spending 4 months going through the process in BIE when it should have been addressed through BIA.

ADDRESS THE "BREAKS" IN THE PROCESS! What is the procedure for the BUREAU OF INDIAN EDUCATION and the BUREAU OF INDIAN AFFAIRS when the schools report facilities deficiencies or when those entities report facility deficiencies? One thing is clear. . .The process is unclear. Transparency is needed for trust in the system.

ADDRESS THE PROBLEMS WITH FMIS! If the reporting system is inaccurate or faulty the reporting is faulty. That is a known truth. This system has been and continues to be a challenge for our grant schools. It is the schools' understanding that this system determines funding not only for their operation and maintenance funding but funding for minor and major repair. Is the data in the system accurate? As the Rock Creek Grant School and the Sitting Bull do not have access to the system and rely on the Great Plains Regional Office Do grant schools have the capacity (staff and technological skills) for utilization of the system?

ADEQUATE TRAINING: If training is required as a result of the Grantee Contract with respect to facilities—BIE provide adequate training and means for training so Schools can stay in compliance with their end of the agreement.

Final Thoughts

There were two major reports done by OIG with respect to safety in the schools, one in 2008 and another in 2010. The problems identified in both reports are commonplace in our Tribal Grant Schools. In 2008 the focus of that report was on the actual facilities and inadequacies within. The 2008 report assigned dollars and responsibility of those dollars to BIE. In the second report 2010 the focus was shifted to the grant schools and the grantee agreements and the responsibility of the dollars

to the grant schools. The problems remained the virtually the same the only difference is the shift in the blame. In the meantime nothing is done.

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