Ysleta del Sur Pueblo
Tribal Council
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TESTIMONY OF
CARLOS HISA, LT. GOVERNOR
YSLETA DEL SUR PUEBLO
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
IN SUPPORT OF
H.R. 1560, A BILL TO AMEND THE YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT TO ALLOW THE YSLETA DEL SUR PUEBLO TRIBE TO DETERMINE BLOOD QUANTUM REQUIREMENTS FOR MEMBERSHIP IN THAT TRIBE.

March 22, 2012

Good afternoon Mr. Chairman, honorable members of the Senate Committee on Indian Affairs. My name is Carlos Hisa and I am accompanied by Janette Hernandez, an enrolled member of Ysleta del Sur Pueblo whose children are directly impacted by the blood quantum limit requirements for tribal membership. Her statement is attached hereto as Exhibit A. I am a member of Ysleta del Sur Pueblo located in El Paso County, Texas. For the past 11 years I have served as the Lt. Governor of the Pueblo. My term of office is one year. The matter under consideration has been a priority for the Pueblo since before my first term.

H.R. 1560 is about freedom – freedom from intrusive federal control. Beginning in the 1970s, this Congress embarked on a new federal Indian policy. You rejected the destructive policies of termination of Indian tribes, assimilation of Indian people and their culture, and the dispossession and despoiling of Indian lands. Instead, you created the present self-determination era of Indian law to free Indian tribes from an overreaching federal government. This Congress has encouraged Indian tribes to take up the mantle of self-government as distinct and independent political entities. Critical to that task is the ability of an Indian tribe to determine its own membership. The Supreme Court has noted, "A tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." See *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). Community determination of its own membership is inherently the most internal of all tribal matters.

The Pueblo has occupied its present location since the Spaniards removed it from New Mexico during the Pueblo Revolt of 1680. The Pueblo has existed at its present location twice as long as the State of Texas has been in existence. It is the longest continually occupied community in Texas. It is the only Indian Pueblo still existing in Texas. It recently rejoined the All Indian Pueblo Council after being absent for over 330 years. The Council now comprises twenty Pueblos.

In 1968, toward the end of the termination era, Congress recognized the Pueblo as an Indian tribe and transferred federal trust responsibilities for the Pueblo to the State of Texas. On August 18, 1987, the United States Congress restored the Federal trust relationship between the United States and the Pueblo. In the Restoration Act, Congress imposed a 1/8th Tigua blood quantum requirement for membership.

No other Indian tribe in Texas is subject to a congressionally mandated blood quantum limitation on its membership. No other Pueblo is subject to such a blood quantum limitation. Except for one early termination era enactment, Congress has subjected no other tribe in the United States to such a blood quantum limitation for membership. In fact Congress has declined to include such a blood quantum limitation on those Indian tribes which Congress has recognized (five tribes) or restored to trust relationship (two tribes) subsequent to the Pueblo's Restoration Act. With the exception of Ysleta del Sur Pueblo, Congress has not imposed a blood quantum limitation on any tribe in over half a century.

Ysleta del Sur Pueblo is a tribe of Tigua Indians. To be Tigua is to believe in the power of our drum, the heartbeat of our community; to respect the authority of our Cacique; and to revere our traditions. Unfortunately, the blood quantum limitation has had the effect of preventing Tiguas from being members. At present, sixty-six percent of tribal members lack a 1/4th blood quantum. Absent the other parent having sufficient Tigua blood quantum, the children of sixty-six percent of tribal members cannot be members of the Pueblo despite being Tigua. This includes my three daughters.

Our young men and women are vibrant Pueblo people who are part of our community. Many aspire to serve our Pueblo, but do not meet the blood quantum limitation to be a member. They participate in our cultural events, they study our history, they engage in community service, they learn and speak the Tiwa language, and they understand the importance of carrying the traditions of our Pueblo forward. These "descendants" are a part of our community and our people recognize them as legitimate members. They are Tigua. They are our future, our hope, but they will not be able to serve as Tribal Councilmen and Councilwomen or in other tribal offices. They will not be eligible for federally funded services from the Pueblo.

They live on our reservation and interact with our members who are their mothers, fathers, grandfathers, grandmothers, cousins, uncles, aunts, and neighbors and influence the entire community for good or for bad. They must be treated like citizens of our Pueblo, but if not included as members they will not be subject to the jurisdiction of the Pueblo. The inability to exert jurisdiction over people who are the children of many of our members has a negative social impact on our Pueblo.

Passage of H.R. 1560 frees the Pueblo to make all Tigua members rather than accepting only those who meet the requisite blood quantum but who may otherwise be anything but "Tigua." Passage of H.R. 1560 assures the future of the Pueblo and the continued security of its people and neighbors without cost to the federal government.

The legislative history of the Pueblo's Restoration Act records the Department of the Interior's belief that the Congress should place some limit on the potential service population of tribes being made eligible for federal benefits, the first time that the Department expressed this concern – a concern, as previously noted, that has been applied only to this Pueblo. Congress has never seen fit to do so since the Pueblo's Restoration Act, perhaps due to the sentiments expressed in a House Committee Report accompanying the bill –

> The Committee has strong reservations about the constitutionality of a law which would determine eligibility for such Federal services based on a racial criterium such as the degree of Indian blood instead of a political criterium such as the membership in an Indian tribe.

The language of H.R. 1560 is the same as that H.R. 5811 introduced by Congressman Reyes in the last Congress. On a motion to suspend the rules, the House agreed to and passed the bill by voice vote on September 22, 2010. This committee reported the bill favorably by unanimous voice vote on November 18, 2010. The bill was placed on the Senate Legislative Calendar under General Orders where it languished, possibly due to an erroneous CBO cost estimate.

Given the unique manner in which the federal government funds Native American services, enactment of H.R. 1560 will have no federal fiscal impact. In support of this statement I am providing the committee with copies of the Congressional Budget Office Cost Estimate (Exhibit B) that confirms:

> "CBO estimates that implementing H.R. 1560 would have no significant impact on the federal budget."

The Cost Estimate also maintains that:

> "H.R. 1560 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Federal programs which fund tribal services, including those of the Pueblo, are not entitlement programs. Agencies distribute appropriated funds among Indian tribes in their service area according to set percentages which are independent of any increase or decrease in a tribe's population. The Pueblo's 1989 budget serves as base funding for BIA allocations, and its 2002 budget serves as base funding for IHS allocations – as is true of all other tribes in the same service areas.

Expeditious passage of H.R. 1560 frees the Pueblo to determine its own future, is consistent with recent Congressional action, and has no impact on the federal coffers. I respectfully request your support for and passage of H.R. 1560.

"Exhibit A"

TESTIMONY OF
JANETTE HERNANDEZ
YSLETA DEL SUR PUEBLO TRIBAL MEMBER
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
IN SUPPORT OF
H.R. 1560, A BILL TO AMEND THE YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT TO ALLOW THE YSLETA DEL SUR PUEBLO TRIBE TO DETERMINE BLOOD QUANTUM REQUIREMENTS FOR MEMBERSHIP IN THAT TRIBE

March 22, 2012

Good afternoon Chairman and honorable members of the Senate Committee on Indian Affairs. My name is Janette Hernandez and I am a member of Ysleta Del Sur Pueblo. I am currently a student at the University of Texas at El Paso and serve as an intern at the Ysleta del Sur Pueblo's Social Services Department. I am also a mother of three little girls and step-mother to eight children. It is my duty as a Tigua woman to teach the next generation about the Tigua who have come before us and teach them about our roles and responsibilities to carry on our traditions and customs. It is also my duty to be there not only for my children, but for every child of the Pueblo.

However, we are facing a crisis at Ysleta del Sur Pueblo. For over 300 years the Pueblo has struggled to preserve its culture and community. We are proud of our ancestors who, captured by the Spanish during the Pueblo Revolt of 1680 and forced away from their homelands, established and defended what is now Ysleta del Sur Pueblo. As Tigua women, my mother and grandmother taught the other women in my family the importance of carrying on traditions and passing on the Tigua way of life. For centuries the Pueblo has endured the loss of its lands, the loss of use of other natural resources, and the loss of rights to determine how the community will care and provide for our children and future generations. It has been a 300 year struggle to survive as a community established and looked after by our Tigua ancestors. For as long as Tiguas have survived in Ysleta, tribal members have sought to live a life free of poverty, discrimination, and uncertainty. This is not yet a reality. Despite such obstacles we have taught our children to hold on, persevere, and standup for our identity as an Indian community. In the 1960s, when the Tigua were finally recognized as a tribe, members had lost almost everything, but we had each other. No one told us who could and could not be Tigua.

As Tigua parents, we want to create a safe, healthy and nurturing environment for our children. However, as Tigua parents we face the insecurity of knowing that our culture, spirituality, and community are threatened. As a parent, it is overwhelming to know that your children and their children could be deprived of their heritage and traditions. As an Indian community we are forced to not only deal with the pressure of raising our children during

complex and dangerous times, but we also must cope with cultural anxiety and uncertainty that is unknown to other ethnic communities. That anxiety and insecurity is passed on to our children. The will and tenacity to survive as a people may now be defeated by a sentence in our Restoration Act, an Act meant to restore and preserve a community but now operates to deny the next generations of Tigua youth their place in the community. Our children are deprived of federal services such as education and other service opportunities in their own community.

My two youngest daughters are considered tribal members because my husband is also a tribal member. However, my oldest daughter from my first marriage to a non-Indian does not meet the 1987 Restoration Act definition of a Tigua. She is considered a descendant because she is below the minimum blood quantum. My husband's other children are tribal members because my husband has a higher blood quantum than I do. So, my oldest daughter is the only one in our family who is not recognized by the government as a tribal member.

She is only eight years old but understands that because she is not Indian "enough," she does not qualify for federal programs or services. She will not receive the trust protections and benefits she would have as a tribal member. She will not be able to live as an equal with her people. My child feels excluded from her own community. Yet, she still carries the responsibility of guarding and working to protect the Tigua way of life through her active participation in traditional ceremonies. She is wise for her age and recognizes that she needs to take care of what matters most, protecting and continuing the Tigua culture so that the Tigua will not cease to exist. She participates in all traditional events and everyone in our small community knows that she is my daughter and comes from a long line of Tigua leaders, elders, and ancestors. To the Pueblo, she is a Tigua. She is a tribal member.

I fear that the mixed messages my daughter receives will be detrimental to her realizing her dreams as a Tigua adult. The burden of an eight year old being acknowledged by her family and community as a Tigua, but our government telling her she cannot be a member of our tribe is unfair and detrimental to her health, welfare and security. It is a "label" that is detrimental to all Tigua children in this situation, the stigma that they don't really belong. Throughout our community there are mothers and children who share my story.

The blood quantum requirement raises countless issues. It divides us as a people and is just another way that we as Native Americans are discriminated against, in general and this time among ourselves. There is no other race where individuals are asked how pure their blood is. So as a mother, a Tigua, and also a descendant of those Tiguas that came before, I ask that you understand and acknowledge our sovereignty, our legacy, and the devastation the blood quantum limitation is inflicting on our community. But, most importantly I ask you to help to preserve a culture and a community.