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U.S. House of Representatives
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December 7, 2012

The Honorable Kevin Washburn
Assistant Secretary for Indian Affairs
Department of the Interior
MS-4141-MIB
1849 C Street, NW
Washington, D.C. 20240

Dear Assistant Secretary Washburn:

Over a year ago, we wrote your predecessor to express our alarm and dismay in response to an investigation by NPR on the foster care system in the State of South Dakota. The NPR investigation reported that Indian children were being removed from their families, and their cultures, in violation of the Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901 *et seq.*, sometimes without cause, and in response to financial incentive.¹ Accordingly, we requested that former Assistant Secretary Echo Hawk assist the Natural Resources Committee Democrats' oversight efforts by reporting on whether the abuses that the NPR report suggested that the State of South Dakota may have committed against Indian children occurred, if they represented a misapplication, or plain disregard, of the ICWA, and if so, what actions the Bureau of Indian Affairs (BIA) has taken (or intends to take) to rectify the situation and ensure it would not be repeated.

¹ "Incentives and Cultural Bias Fuel Foster System," available at <http://www.npr.org/2011/10/25/141662357/incentives-and-cultural-bias-fuel-foster-system>. The investigation found that the State of South Dakota is removing 700 Indian children every year from their homes, sometimes under "questionable circumstances," and failing to place these children with their relatives or tribes as required under the ICWA. NPR also reported that South Dakota is removing children at almost *three times* the rate of other states for what appears to be profit.

In response to our inquiry and request for information, former Assistant Secretary Echo Hawk "committed" to hosting a summit in early 2012 in South Dakota with all stakeholders – tribes, the South Dakota Department of Social Services, and the South Dakota Office of Tribal Relations, among others – to "explore ways in which we can work together cooperatively to ensure compliance with ICWA and to ensure the protection of Indian children and preservation of Indian families." We were buoyed by former Assistant Secretary Echo Hawk's commitment, made not only to us but also to other members of Congress who expressed concern over this serious issue, and awaited the outcome of such a summit. Fourteen months have passed since our initial inquiry and it appears that a summit, or stakeholder meeting of any kind, has yet to materialize.

While the BIA did nothing, however, South Dakotan tribes took action. Press reports indicate that a consortium of tribal directors of ICWA programs on Sioux reservations in South Dakota are preparing to issue a new report that examines the allegations contained in the NPR investigation and reportedly finds them to be plausible. Notably, the allegations respecting misappropriation of federal dollars to state coffers that resulted from sending an unusually high number of Indian children to non-Indian foster families is reportedly also considered credible. The consortium will issue the report to Congress, asking that it ensure that your agency honor its commitment to hold a summit to examine problems with tribal foster care in the state. We eagerly await issue of this report, but in the meantime lament your agency's inaction in the face of such distressing news that appears to corroborate NPR's allegations of ICWA abuses at the state level.

As the newly confirmed trustee-delegate for Indian Affairs, you are charged with promoting the well being of American Indians and Alaska Natives. We hope and expect that your leadership on Indian issues will include a thorough examination of the very serious allegations raised by the NPR investigation, and, at the very least, follow-through on your predecessor's commitment to convening a summit of the stakeholders. And as Ranking Members on the Natural Resources Committee and its Subcommittee on Indian and Alaska Native Affairs, we renew our own commitment to request a formal Natural Resources Committee investigation into the matter.

We look forward to your immediate response. Should you have any questions, contact Jennifer Romero of the House Natural Resources Committee Democratic staff at 202-225-6065.

Sincerely yours,



Edward J. Markey
Ranking Member
Natural Resources Committee



Ben R. Lujan
Ranking Member
Subcommittee on Indian and Alaska Native Affairs

cc: Congressman Doc Hastings
Congressman Don Young
Congressman Jim Moran
Congressman Dale Kildee
Congressman Tom Cole
Congressman Mike Simpson