

Before the US House of Representatives
Subcommittee on Indian, Insular and Alaska Native Affairs
Natural Resources Committee
September 14, 2018
Statement of Governor Carlos Hisa, Ysleta del Sur Pueblo
Regarding HR 4985 Equal and Fair Opportunity Act

Good Afternoon, Chairman La Malfa and Ranking Member Torres. I thank you and your colleagues on the Committee for inviting me to testify today. I am grateful for your time and grateful for the opportunity to tell you about my tribe and my people. I am here representing the citizens of the Ysleta del Sur Pueblo. I serve as the Governor of the Pueblo and in that capacity, it is my responsibility to ensure that the sovereignty, culture, health and welfare of the Pueblo's citizens and its lands are safeguarded and enriched. It is with great honor and respect that I welcome the opportunity for government-to-government discussions.

During my tenure, many efforts have been made to improve the socio-economic opportunities available to our citizens. Yet, the Pueblo is in a constant state of uncertainty because it has not been afforded just and equal treatment. For almost 30 years, the Pueblo has struggled to obtain parity as a Native American sovereign nation to have the same and consistent rights as other federally recognized sovereign nations and to engage in the opportunities afforded to tribes under the Indian Gaming Regulatory Act (IGRA).¹

The struggle to obtain parity is longstanding. Unlike most other recognized tribes, the Pueblo was denied federal recognition until 1968 (Tiwa Indians of Texas Act Public Law 90-287), however, the federal trust responsibility was transferred to the State of Texas.² For twenty short years, the State advocated for state tribes. However, in the 1980s Texas terminated state-recognized tribes, at which time Ysleta del sur Pueblo sought federal restoration. In 1987, the Ysleta del Sur Pueblo and Alabama Coushatta Indian Tribes of Texas Restoration Act was passed as Public Law 100-89.

The Pueblo has continually worked toward a better future by fostering proficient governance, effective institutions and economic development. To put this in perspective, on September 27, 1967, the *San Antonio Express* reported that the conditions that the Tigua lived in were "scandalous" and further reported that the Pueblo's families earned about "\$400 per year mostly picking cotton" and were foraging for food by "digging for roots."³ In the 1960s, work was scarce for the Tigua. Discrimination and lack of education rendered most Tigua unable to find employment. Some Tigua engaged in seasonal farm work in Ysleta or as far away as Arizona or New Mexico, but most were unemployed. Many Tigua were therefore dependent on handouts to survive.⁴

Why was this the case? In the late 19th century, after Texas was admitted to the Union and the border was established between Mexico and U.S., the Treaty of Guadalupe Hidalgo specified that existing land

¹ Indian Gaming Regulatory Act, 1998 (Public Law 100-497, 25 U.S.C. § 2701 et seq).

² Tiwa Indians Act. Pub. L. No. 90-287, 82 Stat. 93 (1968)

³ El Paso Tigua Indians Still Tribal. *San Antonio Express*. San Antonio, TX. 24 Sept. 1967.
(<https://newspapers.com/image/61179238>, accessed 23 Aug 2017)

⁴ Houser, Nicholas. Ysleta Grant: to the Place of Beginning. Ysleta del Sur Pueblo Archives Volume I.

grants were to be honored. Nonetheless, Tigua land was illegally seized by developers, politicians and settlers who were new to the area. Tigua lands were then incorporated as the Town of Ysleta by the Texas Legislature. This rendered the Tigua landless and unrecognized as a tribal nation. Without access to their land, the Tigua lost farms, access to hunting grounds, water from the Rio Grande and the irrigation systems that the Tigua had originally built.⁵ Cut off from their economic livelihood and resources, the Tigua were thrust into extreme poverty.⁶

The tribe which once enjoyed a 36 square mile land base was forced to live on a few tracts of land. Dispossessed of their homes, many Tigua had no choice but to leave their community in search of work. Other Tigua were removed from the Pueblo as children by the Bureau of Indians Affairs and sent to boarding schools.⁷ The Town of Ysleta was annexed by the City of El Paso in 1955. The Tigua who were still grappling with the challenge to survive found themselves once again losing what little lands they had to tax foreclosure and predatory loans. What is more, those Tigua who remained on their homelands were exceedingly underprivileged and did not have access to public utilities, such as electricity and plumbing, in a municipality where non-Indian citizens enjoyed such amenities.

Despite living in conditions considered deplorable by mainstream society and in a social, health and economic state that was compared to a third-world environment, Tigua citizens stayed because being born into Ysleta del Sur Pueblo culture is considered a sacred gift from the Creator. It is home and where the ceremonies are held and where the graves and the spirits of our ancestors remain. The Pueblo has preserved its culture and kinship for centuries of generations. It is a place where many have suffered but also a place filled with joy, culture, family, traditions and hope for the future. The depth of dedication to our traditions and community has no limits. Whether living in poverty or economically thriving, the Tigua people will pursue our right to exist, observe our way of life and maintain our inherent sovereignty.

From the time it was finally recognized in 1968, the tribe has strategically and systematically improved its socio-economic state. In the 1960's the Tigua averaged a 5th grade education and 70% unemployment.⁸ Furthermore, housing was comprised of dirt foundations and consisted of one or two overcrowded rooms. Tribal citizens could not afford furnishings such as couches or mattresses, so family members and children slept on the floor or outside. Stress on the youth was particularly acute. Many were succumbing to the pressures of alcoholism and substance abuse.⁹

After federal recognition was transferred to the State of Texas, the Pueblo embarked on tourism and tribally owned enterprises. It also had limited funding opportunities channeled through the Texas Indian Commission. The economic development efforts led by the tribe resulted in verifiable economic impacts. In 1970, the unemployment rate of YDSP was 40% – still outrageously high but much lower than the 70% unemployment rate of the 1960s. By 1983, the unemployment rate was still on the decline at 35%, and

⁵ Hendricks, Rick. Report on Land Tenure in Ysleta del Sur Pueblo. 1998. Ysleta del Sur Pueblo Archives Volume I.

⁶ Indian Gaming Regulatory Act, 1998 (Public Law 100-497, 25 U.S.C. § 2701 et seq).

⁷ Greenburg, Adolph. Tigua Land Tenure and Land Use Practices. Department of Sociology, Gertoglogy and Anthropology. Miami University at Oxford. 1998. Ysleta del Sur Pueblo Archives Volume I. p. 209.

⁸ Cura, Ed. "Two Indian Tribes Foresee Trail of Tears." El Paso Times. 5 May 1978.

⁹ Houser, Nicholas. Description and Analysis of Tiwa Community of Ysleta, Texas. 1966.

medium income was reported at \$6,700 annually compared to the national rate of \$12,352. While still far below national standards, it was a significant improvement from the socio-economic state of 1968.¹⁰

Despite such disadvantages, the Pueblo has demonstrated dynamic efforts toward a self-sustaining economy. YDSP has reduced its dependence on federal funding by implementing tangible strategic economic development strategies. One such business development strategy included the establishment of Speaking Rock. In 1987, the Indian Gaming Regulatory Act was enacted by Congress (Pub. L. No. 100-497, 102 Stat. 2467 (Oct. 17, 1988)), and in 1992 the Texas State Lottery was passed, at which time Texas began offering scratch-off and lottery games (Texas Administrative Code (TAC), Title 16, Part 9, Chapters 401 through 403). Because gaming was permitted at the federal level for tribes and the above-mentioned games became legal in Texas, the tribe embarked on gaming presuming that equal economic self-determination and the right to regulate tribal affairs corresponded to all tribal nations.

YDSP's consistent efforts to regain control of its economic sovereignty have demonstrated that when it manages its own economic activities, it results in successful socio-economic outcomes. During the Speaking Rock epoch, the Ysleta del Sur Pueblo not only reinvested its income into the Tigua community, "Economic Impact of Speaking Rock Casino" indicated the following economic effects on the Pueblo and on the El Paso region:

- Over \$823 million direct and indirect regional impact
- Over \$150 million in local expenditures injected into region
- Over \$50 million dollars in payroll spent on the local economy
- Over 785 jobs were created that supported YDSP and regional employment
- YDSP unemployment rate decreased from over 40% to almost 0¹¹

As demonstrated, Speaking Rock was not only the number one employer for Ysleta del Sur Pueblo, it created jobs for the El Paso region. In addition to an immense boon for the tribe, it also contributed greatly to the region. Additional economic activities and impacts noted in the study are exhibited below:

- Stimulated and injected revenues into the tribal and regional economies
- Increased tourism
- Reduced unemployment
- Raised median incomes
- Improved health, retirement and other benefits
- Decreased tribal citizen dependence on welfare
- Tribal government operations and program funds increased
- Subsidized tribal services including but not limited to health, social services, elderly care, cultural preservation, education and youth development
- Promoted economic and community development
- Developed human capital (education, technical skills, financial literacy)
- Fostered small business and entrepreneurship
- Built infrastructure and housing
- Donations to charitable organizations

¹⁰ Cura, Ed. "Tiguas Building with Their Own Hands." El Paso Times. 23 May 1978.

¹¹ Dillman, Everett G. An Evaluation of the Impact of Speaking Rock Casino. International Business Planners, Inc. 1999.

- Encouraged cultural preservation and sustainability
- Provided for the general welfare of the tribe and its citizens
- Created long-term funds and tribal endowments
- Invested in YDSP-owned enterprises that fostered self-sufficiency¹²

Income from tribal enterprises is injected into the tribal community and creates economic stability and a pronounced level of self-sufficiency and autonomy to advance the YDSP nation, citizens and culture. The 2002 closure of Speaking Rock resulted in an immediate blow to the YDSP economy and its citizens as demonstrated below.¹³

- YDSP program and agency funding lost
- Unemployment skyrocketed from 3% to 28%
- Those who found jobs were underemployed and worked for lower wages
- Citizens left the Pueblo in search of work
- Citizens were unable to pay mortgages
- Retirement and 401K funds lost
- Long-term YDSP funding threatened
- Budget cuts to YDSP programs and services
- Direct assistance to tribal citizens slashed
- Higher education scholarships cutbacks
- Elder meals and other program closures or reductions
- Funding for culture and arts decreased

In 2006, the tribe once again asserted to advance its economic sovereignty and support its people, by introducing a sweepstakes and a bingo model, only to be challenged and disparaged by the State again resulting in extensive litigation.¹⁴ Because YDSP should be able to exercise its civil authority within its jurisdiction, so this litigation is unnecessarily demanding and an opportunity cost for the Pueblo and the State. Just as other governments including states and tribal nations engage in raising revenues through lotteries, bingo and gaming, YDSP asks for the same rights and opportunities to self-determine its future and self-govern its business, economic and government affairs. What is more, as a tribal nation, YDSP seeks to increase coordination and strategies that benefit both YDSP and Texas and demonstrate mutual respect for each governments' authority and laws. We thank Congress for understanding the need to deliberate and address the matter before you.

As demonstrated, severe poverty of the Ysleta del Sur Pueblo and its socio-economic circumstances are a direct result of repeated interruptions to self-determination, self-governance, culture and economic resources. From the time the Spanish first encountered the Tigua, we have been subjected to colonization, forced labor, depletion of resources and land, loss of culture, oppression, and discrimination.¹⁵

¹² Ysleta del Sur Pueblo. "Ysleta del Sur Pueblo 2007 Socio-Economic Profile." Ysleta del Sur Pueblo, Texas. 2008.

¹³ Riggs, Patricia. Historical and Contemporary Ysleta del Sur Pueblo Economy. Tigua Inc. Cultivating Cultural Connections. June 2017.

¹⁴ Anda-Swan, Brenda. Tiguas ordered to remove 'sweepstakes gaming' or face stiff penalties. El Paso Times. 21 Sept.2006. Available at: <https://www.kvia.com/news/tiguas-ordered-to-remove-sweepstakes-gaming-or-face-stiff-penalties/89245731>

¹⁵ Hendricks, Rick. Report on Land Tenure in Ysleta del Sur Pueblo. 1998. Ysleta del Sur Pueblo Archives

So, now we stand here today respectfully pleading for our future and the sovereign rights of the Ysleta del Sur Pueblo. Also hoping that Texas will join forces and undertake a partnership with the Pueblo to safeguard the citizens of YDSP. Examples of states that acknowledge and foster tribal autonomy and self-determination include Montana and New Mexico. These states serve as a model to foster native legacy, history, culture and contributions of native nations to their states, as well as advocate, foster consultation, and negotiate with tribes. Likewise, these states pass state legislation that shields tribes from harm, such as the Montana Indian Education for All Act, which requires all Montana schools to “include curricula about the history, culture and contemporary status of its Native American population.”¹⁶ Additionally, the State of New Mexico passed the “State-Tribal Collaboration Act” and administers an Indian Affairs Department, which implements state-tribal policies intended to improve the quality of life for the state's Native American citizens. YDSP has attempted to mend state-tribal affairs.¹⁷ In 2015, YDSP introduced the H.B. 63, known as the State-Tribal Collaboration Act, which was tailored to address the needs of Texas tribes and designed to improve relations between Texas tribes and the state. The act passed the Texas House of Representatives but sadly failed in the Senate. We ask that Congress heed the words of the honorable, late Senator John McCain who championed native nations rights: “We must listen more to you and get out of the way of tribal authority.”¹⁸

Moreover, fallacies about the Pueblo, as well as other native nations, create misconceptions about the tribe. Many believe that the Pueblo is wealthy, when in fact it struggles to meet the basic needs of its citizens and create economic conditions that are on par with the rest of the nation. According to the 2016 YDSP Socio-Economic Profile, 47% of YDSP citizens live below federal poverty levels, the medium personal income is \$16,722 and the medium household income is \$29,122. Income levels rank at only 50% of U.S. household income. The Pueblo has made great strides to increase educational levels. Most impressively, high school attainment has markedly increased. As noted earlier, the 1968 education attainment level was the 5th grade. Today, YDSP can boast that 83% percent of adult citizens have attained a high school diploma or equivalent. While the Pueblo still lags behind the nation in obtaining four-year degrees, it is proud to report that 15% of its citizens now possess a bachelor’s degree or higher.¹⁹

The transformation of the Pueblo over the last 50 years has transpired from tribally-driven actualization. The Pueblo has acted strategically and responsibly, and those efforts have augmented affordable housing opportunities, improved infrastructure, amplified cultural preservation programs, and established institutions such as the court system, police department, fire and emergency. Moreover, it has instituted checks and balances that monitor YDSP services and agencies to measure progress and achievements, and assessments are conducted to ensure that agencies are adding value and making social, economic or quality of life impacts or corrective actions are required. All this has transpired

¹⁶ Constitution of Montana and Amendment. Article X Education and Public Lands. MCA 20-1-501 (Indian Education for All) Available at: https://opi.mt.gov/Portals/182/Page%20Files/Indian%20Education/Indian%20Education%20101/ArticleX_IEFA.pdf

¹⁷ New Mexico State-Tribal Collaboration Act. Chapter 11: Intergovernmental Agreements and Authorities Article 18: State-Tribal Collaboration Act, 11-18-1 through 11-18-5. Available at: <https://law.justia.com/codes/new-mexico/2011/chapter11/article18/>

¹⁸ McCain, John. Testimony Before National Congress of American Indians. Available at: <http://www.ncai.org/news/articles/2018/08/26/the-former-chairman-of-senate-committee-on-indian-affairs-senator-john-mccain-of-arizona-passes-on>

¹⁹ Ysleta del Sur Pueblo. “Ysleta del Sur Pueblo 2016 Socio-Economic Assessment.” Ysleta del Sur Pueblo, Texas. 2017.

despite the interruptions to YDSP's economic advancement and constant legal battles to further its economic potential. In fact, the Pueblo's efforts for rebuilding an effective and sustainable tribal nation have been recognized nationally for best practices and effective self-governance as listed in the ensuing table:

YDSP Honors and Recognition for Best Practices and Self-Governance

- **2010** - Harvard Project on American Indian Economic Development (HPAIED) Honoring Nations Award for "Project Pueblo: Economic Revitalization Project"²⁰
- **2013** - YDSP achieves Self Governance contracting status with Department of Interior²¹
- **2013** - Americans for Indian Opportunity — Taos Blue Lake Spirit of Indigeneity Award²²
- **2013** - YDSP - Indian Health Services joint venture
- **2016** - HPAIED Honoring Nations High Honors Award Project Tiwahu: Redefining Tigua Citizenship²³
- **2018** - YDS testifies to Senate Committee on Indian Affairs for data²⁴

Ensuring that IGRA applies to the Pueblo is also necessary because reservation land is held in trust by the federal government. The result is that the tribe, like other native nations, does not hold outright title to its own indigenous soil and homes as it ought to because these lands have been occupied by the Pueblo for centuries. While the trust status affords some protections of land, the tribe cannot tax properties or build equity to generate income like other forms of government, which is why the income generated from tribally-owned enterprises such as Speaking Rock is of critical consequence to the Pueblo.

Since time immemorial, the Pueblo people have strived to conduct themselves in ways that create positive relationships with their neighbors. Tigua men have a long history of serving in the military and protecting Texas and the U.S. They served as scouts to protect west Texas in the late 19th century. Tiguas also served in World War I, World War II, the Korean War, and the Vietnam War and continue to serve in places such as Afghanistan and Iraq. The recently departed Cacique²⁵ Francisco Paiz Holguin was a WWII veteran of the Army Air Corps. For his service and bravery, he was decorated with seven Bronze Stars, the European-African Medal, the Eastern Campaign Medal, and a Good Conduct Medal.²⁶ Today, decorated service men and women such as our present Lieutenant Governor also continue to honor

²⁰ Honoring Nations. "Project Pueblo: Economic Development Revitalization Project." Honoring Nations: 2010 Honoree. Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University. Cambridge, Massachusetts. 2011. Report. (<https://nnidatabase.org/text/project-pueblo-economic-development-revitalization-project>, accessed August 7, 2015)

²¹ 2013 Ysleta del Sur Pueblo Annual Report. Ysleta del Sur Pueblo. 2014.

²² Ysleta del Sur Pueblo Honored by Americans for Indian Opportunity. June 2013. <http://aio.brownrice.com/news/aio/detail/27>

²³ Honoring Nations Directory of Honored Programs 1999-2017. Harvard Project on American Indian Economic Development. Available at: 1997- <https://hpaied.org/sites/default/files/HPAIED%20Directory%202016-2017%20FINAL.pdf>

²⁴ Hisa, Carlos. Before the State Committee of Indian Affairs. April 2018. Available at: <https://www.indian.senate.gov/sites/default/files/Carlos%20Hisa%20Testimony%20Final%204-18-18.pdf>

²⁵ "Cacique" – Highest spiritual leader of the Ysleta del Sur Pueblo, also known as the "Tika' bede"

²⁶ Riggs, Patricia. Three Centuries of Self-Governance. Ysleta del Sur Pueblo. 2013.

both the Pueblo and our nation through military service. Lieutenant Governor Brandon Hernandez served as a U.S. Marine Corps Sergeant where he earned the Defense Meritorious Service Medal, Joint Service Commendation Medal with "V" Device, Combat Action Ribbon and other commendations.²⁷ Additionally, the Pueblo donates time and funding to regional charities and organizations including: Wounded Warriors, Volunteer Income Tax Assistance, Community Emergency Response Team, Ysleta Mission Restoration, health partnerships, and local universities, among other charitable contributions.

The tribe also utilizes its revenues to support the Pueblo's cultural, economic, housing, land, natural resources, health, education, and social needs. Despite hundreds of years of interference from colonizers and external governments that persist, YDSP continues its efforts to maintain its sovereignty, foster its culture, build its economy and become a self-sufficient nation.

Income from Speaking Rock has also been used to establish and fund institutions of governance. Although the U.S. has a trust responsibility, we respectfully submit funding does not meet the needs of the Pueblo (or other tribal nations). Accordingly, we must generate income to inject into its economy and to address YDSP governance and community needs. The Tribe as a government entity has the responsibility to provide citizens with infrastructure, roads, education, health services, housing, social and other human services.

As demonstrated, Speaking Rock has been a powerful economic development tool to rebuild a better and sustainable nation. The future of the Pueblo without Speaking rock is stark. The uncertainty diminishes the Pueblo's capacity and resources to address the economic needs, along with the social and health realities impacting the Pueblo, and insures that there is a future for our children. The Ysleta del Sur Pueblo is our home and nation, and we require financial assets to continue to support and protect it. We have survived because of our core principles, values and our will to preserve our way of life. We want to be able to self-sustain and self-determine our future, and HR 4985 will empower us to do so.

Today, life is still difficult for many Tigua citizens who continue to live in a poverty-stricken situation. It is a delicate balance to live in the 21st century, to provide for the Tigua people and to maintain our traditional ways. And still, we make offerings for all people of the world including those who oppose our efforts to advance and protect our rights as a native nation. We also pray that we may co-exist, build collaborations, form equal relationships and find a way that all parties can survive peacefully and abundantly.

Again, I thank you for allowing me to testify today as well as for the opportunity for my brothers and sisters with the Alabama-Coushatta Tribe to be here today. We would be grateful for the Committee's favorable treatment of HR 4985. As I mentioned above, HR 4985 will empower us to improve our economic well-being and self-sustain and self-determine our future. That is what all Americans seek and what we as a Tribe hope to achieve. I look forward to answering your questions.

²⁷ Hernandez, Brandon. Personal Interview. August 2018.