

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
STATEMENT OF  
MR. GARY J. HARTZ, DIRECTOR  
DIVISION OF ENVIRONMENTAL HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH AND ENGINEERING  
INDIAN HEALTH SERVICE  
BEFORE THE  
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS  
HEARING ON THE INDIAN LANDS OPEN DUMP CLEAN-UP ACT OF 1994  
JULY 26, 1994

TESTIMONY OF DIRECTOR, DIVISION OF ENVIRONMENTAL HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH AND ENGINEERING  
INDIAN HEALTH SERVICE

Mr. Chairman and Members of the Committee:

I am Gary Hartz, Director, Division of Environmental Health accompanied by Mr. Thomas Crow, Chief of the Environmental Health Services Branch and Dr. Richard Barror, Chief of the Sanitation Facilities Construction Branch. We are pleased to be here today to discuss with you S.720, Indian Lands Open Dump Clean-up Act of 1994.

The goal of the IHS is to raise the health status of more than 1.3 million American Indian and Alaska Native (AI/AN) people to the highest possible level. In order to achieve this, the IHS has a threefold mission: 1) to provide or assure the availability of high quality, comprehensive, and accessible health services; 2) to provide increasing opportunities for Indians to administer their own programs; and 3) to serve as a health advocate for Indian people. As part of this mission, the IHS is committed to promoting a healthy environment including the construction of essential sanitation facilities, as well as advocating for proper public health practices and assisting in the resolution of environmentally-related health concerns. In FY 1993 the IHS assisted in the provision of essential sanitation facilities to over 8,200 Indian homes and provided over 160,000 environmental health services to Indian homes and communities.

The availability of sanitation facilities and improved housing is widely credited with significantly contributing to the remarkable improvements in the health status of the American

Indians and Alaska Natives since 1955 when environmentally related disease death rates ranged from about 3 to 7 times the U.S. All Races rates. Since the passage of the Indian Sanitation Facilities Act, Public Law 86-121, in 1959, more than 196,000 new, renovated, and existing AI/AN housing units have received sanitation facilities for the first time. These services have included the construction of systems to provide safe individual and community drinking water, as well as sewage and solid waste collection and disposal facilities. During this period, Congress has appropriated more than \$1.1 billion to the IHS for this purpose. These environmental services along with the improved availability of health care services have yielded the following health improvements since 1972-74:

- 1) The infant mortality rate for American Indian and Alaska Natives decreased 50 percent.
- 2) The age-adjusted tuberculosis death rate for American Indian and Alaska Natives dropped 76 percent.
- 3) The age-adjusted injury death rate dropped from 216.0 to 93.1 in 1987-89, a decrease of 57 percent.
- 4) The age-adjusted gastrointestinal death rate decreased 80 percent.

A small percentage of the \$1.1 billion has been spent by the IHS on the development of solid waste collection and disposal facilities because of higher public health priority on water supply and sewage disposal problems throughout Indian country. This priority, consistent with tribal desires and legislative mandates, has been reflected in expenditures over the years which have been directed primarily to water and sewer projects.

### Public Law 86-121

The provision of sanitation facilities to safe, adequate housing has enhanced and extended the lives of tens of thousands of American Indians and Alaska Natives. The primary authority for the IHS to provide necessary sanitation facilities and services is section 7 of the Transfer Act (as amended by the Indian Sanitation Facilities Act), which authorizes the IHS "to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage and waste disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities and lands;."

### Indian Health Care Amendments of 1988

The Indian Health Care Amendments of 1988, P.L. 100-713, reaffirmed the primary authority and responsibility of the IHS to provide the necessary sanitation facilities and services as provided in section 7 of the Indian Sanitation Facilities Act.

In section 302(g) (4) of the Indian Health Care Improvement Act, Congress, identifies five sanitation deficiency levels (Level I - Level V) for Indian homes and communities with Level V being the most serious deficiency level. Level V is defined as an Indian tribe or community that lacks a safe water supply and a sewage disposal system; Level IV is defined as an Indian tribe or community that lacks either a safe water supply system or a sewage disposal system. The lack of a solid waste disposal facility is identified as a Level III deficiency. Systems with Level II and Level I deficiencies comply with all laws, but need capital improvements or have deficiencies related to routine repair and replacement.

Section 302(c) of the Act required the IHS to develop and begin implementing a 10-year plan to remedy these sanitation deficiencies in Indian country. The 10-year plan was included in the Second Annual Report to Congress on Sanitation Facilities Deficiencies for Indian Homes and Communities dated March, 1990, and revised in the fourth annual report dated February 1992.

Priority for funding in the 10-year plan is determined in large part by the health effect and the potential for reducing health care costs by preventive health measures as stated in subsection 302(a) (3) of the Act. Funding required to correct solid waste deficiencies are included in the 10-year plan, however, based on health considerations, projects to provide water supply and sewage disposal facilities generally have higher priority for IHS Indian sanitation facilities construction funds than solid waste disposal facilities.

#### Current Funding for Solid Waste Facilities

During the past two fiscal years approximately \$170 million (FY 1993 - \$85 million and FY 1994 - \$85 million) have been appropriated for the construction of sanitation facilities. We currently estimate that approximately \$5 million of the \$170 million will be utilized for solid waste management facilities.

#### Estimated Costs for Solid Waste Facilities

The IRS is also required to provide an annual report to Congress which includes a list of proposed sanitation facilities construction projects, and an estimate of the cost to correct solid waste deficiencies eligible for funding under the sanitation facilities construction program.

Our most recent estimate for these solid waste deficiencies is approximately \$141 million. Approximately \$59 million of the \$141 million is to address solid waste deficiencies in the state of Alaska. The estimate includes solid waste collection and disposal facilities and closure of tribally owned existing sites.

Current cost estimates for correcting solid waste deficiencies have been included in approximately 500 proposed construction projects to serve approximately 125,000 Indian and Alaska Native homes located on over 100 reservations plus 175 communities in Oklahoma and Alaska.

The actual cost to correct the deficiencies may differ substantially from our current estimate because: (1) experience with estimating costs for complying with new EPA solid waste regulations is limited, (2) most estimates are not based on detailed engineering studies, and (3) the costs for the various options to correct solid waste disposal deficiencies may vary substantially.

#### Project Priority

Each Area prioritizes all their proposed sanitation facilities construction projects by assigning points for each of eight criteria. The priority lists are used to determine relative priority of projects in the Area and are adjusted annually to reflect current conditions and tribal desires. Project priority is determined, in large part, by health impact and the potential for reducing health care costs by preventing disease.

Some proposed projects provide more than one type of facility such as water, sewerage and solid waste facilities and therefore a separate priority list to address only solid waste deficiencies could not be easily developed from the current data base (Areas would be required to identify all projects to correct solid waste deficiencies as separate projects).

A separate list with its own criteria and scoring procedure may be appropriate to more specifically address health and environmental impacts of solid waste deficiencies.

#### Technical Assistance

Pursuant to the Transfer Act of 1954, which transferred the responsibility for Indian health care from the Department of Interior to the Department of Health and Human Services, the IHS is also authorized to provide technical assistance and consultative environmental health services to Indian tribes. The IHS maintains a comprehensive environmental health program for American Indians and Alaska Natives utilizing this authority. The IHS may carry out the program directly with Area and field office environmental health professionals or a tribe may take responsibility for program implementation under the Indian Education and Self-Determination Act.

Technical assistance relative to solid waste management may include: (1) surveys of solid waste disposal sites, (2) assistance with development of tribal codes and ordinances, (3) assistance with development and/or review of management plans, (4) assistance with community education campaigns, (5) training of solid waste program managers and other workers, (6) assistance with

identifying funding sources and (7) assistance with evaluating and identifying solutions for operational problems. Assistance is obtained through the IHS Area or field offices. The availability of this assistance is based on current workload and priorities established for the total environmental health program. The IHS environmental health staff includes approximately 475 engineers, sanitarians, environmental health technicians, engineering aids, injury prevention specialists etc. However, the Federal Workforce Restructure Act makes the addition of Federal staff for these programs unlikely.

### Solid Waste Disposal Sites

As part of its program of technical assistance IHS maintains a list of solid waste disposal sites located on Indian land which may warrant periodic inspection by IHS environmental health staff in order to adequately advise tribal officials of potential health effects. The list includes a total of approximately 600 sites, of which approximately 175 are in Alaska and approximately 100 are on the Navajo Reservation. This listing is not a complete inventory of solid waste disposal sites but includes those active reservation sites associated with domestic solid waste systems and may include additional locations identified by IHS where there is potential for adverse health effects associated with solid waste disposal. Proposed projects to correct sanitation deficiencies of tribally owned domestic solid waste disposal sites on this list and tribally owned previously used domestic solid waste disposal site are included in the Indian Health Service list of needed sanitation facilities construction projects. The current IHS information regarding solid waste sites will need to be reviewed to ensure its compliance with section 7(b) of S. 720.



## Comments and Concerns

We have the following comments and concerns on S.720 as referred to the Committee on National Resources.

1. We believe that closure of open dumps must be undertaken as part of a total solid waste management plan for the reservation. The first step in site closure requires development and implementation of an acceptable solid waste management system to prevent unauthorized dumping after closure of the site. The legislation appears to address Indian Health Service responsibilities for site closure and maintenance as an issue separate from solid waste management planning. A demonstration project should not be approved until a plan and funding for implementation is in place.
2. Cost estimates for closure of these sites can be accomplished with reasonable accuracy based upon application of Resource Conservation and Recovery Act (RCRA) criteria and EPA regulations. Accurately estimating future costs for postclosure maintenance is much more difficult. Closure can be accomplished with finite expenditure of funds; however, the need to expend funds for maintenance will continue indefinitely. Because the universe of sanitation deficiencies to be addressed with capital improvement funds is so significant, we believe that long-term postclosure maintenance funding commitments by the Federal Government should be considered carefully and, if authorized, any Federal share established should be limited and not to exceed 2 years.

This concludes my opening statement. I will be happy to respond to any questions.