Lower Brule Sioux Tribal Council Meeting – May 6, 2020

RESOLUTION NO. 2020-115

APPROVE LBST RESOLUTION OF SUPPORT FOR AGRICULTURE PRODUCERS

WHEREAS, the Lower Brule Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, as empowered by the Constitution and Bylaws, Article VI, Section 1, (e) the Tribal Council as authorized by law to safeguard and promote the peace, safety, morals, and general welfare of the Lower Brule Sioux Tribe and to regulate and conduct of trade and the use and disposition of property upon the reservation provided that any ordinance directly affecting nonmembers of the reservation shall be subject to review by the Secretary of the Interior; and
WHEREAS, many Tribal economies are supported by more than 80,000 agriculture producers that were financially stressed prior to the outbreak of COVID-19; and

WHEREAS, without the ability to grow food and provide nourishment, no other economic measures will be effective in dealing with the fallout of the global pandemic; and

WHEREAS, the CARES Act that was recently passed is proving to offer no meaningful assistance to Indian Ag producers;

NOW THEREFORE BE RESOLVED, that the Lower Brule Sioux Tribe does hereby request that the following actions be taken:

1. First, the Secretary of Agriculture is authorized to significantly reduce all FSA loan payments for the 2020 and 2021 production years, and extend all loans by two (2) years.
2. Second, the Secretary is authorized to offer payments to lenders if they reduce the interest rate of current loans by 2% and offer the same reduced loan payments and extensions to their borrowers.
3. And third, the Secretary is authorized to use FSA Farm Ownership loans to refinance real estate and other debt to aid in recovery from this crisis; and

BE IT FURTHER RESOLVED, that the Lower Brule Sioux Tribe supports introduction and passage of the following legislation proposed by the Intertribal Agriculture Council which would create a new Section under 7 U.S.C. Chapter 50 – Agriculture Credit, Subchapter IV:

Deferral of Principal; Payments for COVID-197 U.S.C. XXXX

(a) Irrespective of any other guidance in this title, the Secretary shall defer all principal payments and extend the maturity date by two years on any farm program loan existing or made during the 2020 and 2021 production years;

(b) FSA Farm Ownership Loans may be used for refinance of FSA Guaranteed Loans or any other real estate debt if such application is made before December 31, 2021;

(c) The Secretary shall expend such funds as are needed to offer a 2 percent interest buy down on any existing agriculture debt through a guaranteed or direct loan provided the participating lenders grant the same principal deferral and maturity date extension, for 2020 and 2021.
CERTIFICATION

The foregoing resolution was duly adopted by the Lower Brule Sioux Tribal Council assembled in Regular Session with a quorum present on the 6TH day of May, 2020 by the affirmative vote of five members for, none against, none absent, and none not-voting.

Boyd Gourneau, Chairman
Lower Brule Sioux Tribe

ATTEST:

Orville Langdeau Jr., Secretary/Treasurer
Lower Brule Sioux Tribe
April 13, 2020

The Honorable Collin Peterson  
U.S. House of Representatives  
Chairman  
U.S. House Committee on Agriculture  
1301 Longworth House Office Building  
Washington, DC 20515

The Honorable Amy Klobuchar  
U.S. Senate  
Member  
U.S. Senate Committee on Agriculture, Nutrition, & Forestry  
328A Russell Senate Office Building  
Washington, DC 20510

The Honorable Tina Smith  
U.S. Senate  
Member  
U.S. Senate Committee on Agriculture, Nutrition, & Forestry  
328A Russell Senate Office Building  
Washington, DC 20510

RE: Solutions to Help Support Agriculture Producers During the COVID-19 Crisis

Dear Chairman Peterson, Senator Klobuchar, and Senator Smith:

With the uncertainty we face as we continue the work of feeding the country, not to mention an ever-increasing section of the world, it is important that we have some action now that would allow us to make adjustments to our operations for the immediate future that ensure a safe, and affordable food supply. We have been squeezed nearly as much as we can stand; between rising operating costs, uncertain commodity markets, and ever increasing debt.

On behalf of the membership of the Intertribal Agriculture Council (IAC), my fellow members of the Red Lake Band of Chippewa in Minnesota, and agriculture producers all across the nation, I urge you to consider the following solutions to help us weather this current storm. I do so as a taxpayer as well, cognizant of the concerns we all share about our fiscal policy; and as such, this solution could be structured in a way that it costs the country very little, except for time.

For those of us with direct government loans, the solution is simple: an immediate deferral of principal due for the 2020, and 2021 production years, and extending the maturity date by 2 years. Doing so at this time would allow producers to focus on maintaining production levels, and plan for the use of any production income. The alternative, for those fortunate enough to
have had some time to amass equity, is selling our products into uncertainty this fall, enduring the shame of a delinquency beyond our control, and eventually Primary Loan Servicing. Prevailing interest rates will be significantly lower at that time and the result of PLS would be a markedly lower return on the taxpayers investment in our businesses.

Let those of us with direct federal financing continue to pay that rate of return but extend those notes by two years. By keeping the current interest rate, program savings would be realized that could be used to benefit those of us with non-federal ag debt. Our research indicates the number could be up to $20,000,000. Not only will this solution allow us to reposition our operations, it creates the preservation of farm loan program income that could be used for helping those of us with guaranteed or direct commercial credit.

Second, for all other ag producers with debt, whether it be guaranteed or commercial lending, the return on the taxpayer investment preserved in part one of this solution, could be used to ease interest rates and incentivize lenders across the country to further preserve our capacity to produce. Buying down the interest rate 2%, through a grant to lenders, not from taxpayer appropriations through the Commodity Credit Corporation, but from program income would save countless farmers and ranchers from disaster. In exchange, ag lenders offer the same patience afforded direct loan recipients; a two year extension with a deferral of principal.

The third part of this solution, also a no cost solution for the taxpayer, is authorization for an additional $3 billion in farm ownership loans, and to allow those of us in need to restructure our operation by leveraging our real estate equity to our benefit. As you are aware, FSA Farm Ownership Loans have zero subsidy rate, and serve as a valuable long term investment of taxpayer dollars.

Our concerns are echoed by the National Rural Lenders Association, American Bankers Association, Independent Community Bankers of America, AgCredit ACA, American Farm Mortgage and Financial Services, National Sustainable Agriculture Coalition, National Association of Credit Specialists - FSA, and others, and we propose the following language to be included in any upcoming legislation being considered by the U.S. Congress to help provide a solution:

Create a new Section under 7 U.S.C. Chapter 50 – Agriculture Credit, Subchapter IV:
Deferral of Principal Payments for COVID-19 Relief 7 U.S.C. XXXX
(a) Irrespective of any other guidance in this title, the Secretary shall defer all principal payments and extend the maturity date by two years on any farm program loan existing or made during the 2020 and 2021 production years;
(b) FSA Farm Ownership Loans may be used for refinance of FSA Guaranteed Loans or any other real estate debt if such application is made before December 31, 2021; and  
(c) The Secretary shall expend such funds as are needed to offer a 2 percent interest buy down on any existing agriculture debt through a guaranteed or direct loan provided the participating lenders grant the same principal deferral and maturity date extension, for 2020 and 2021.

I ask that you help to bring about these solutions, and help me, and producers like me all across the country, to continue providing the food and fiber at an affordable price that ensures that this country can prosper, in good times, and bad. Feel free to contact our Executive Director, Zach Ducheneaux at 605-222-3852, or zach@indianag.org if you would like to discuss this matter further.

I thank you, on behalf of farmers and ranchers across Indian Country.

Harlan Beaulieu, President  
Intertribal Agriculture Council  
Proud Member of the Red Lake Band of Chippewa
April 17, 2020

The Honorable John Hoeven  
Chairman  
U.S. Senate Committee on Indian Affairs  
838 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Tom Udall  
Vice Chairman  
U.S. Senate Committee on Indian Affairs  
838 Hart Senate Office Building  
Washington, D.C. 20510

RE: Support Additional Legislation to Empower Indian Country Food Programs Access and Tribal Producers During the COVID-19 Crisis Response and Recovery

Dear Chairman Hoeven and Vice-Chairman Udall:

On behalf of the Spirit Lake Tribe, I would like to thank you for both your leadership supporting the issues facing Indian Country during this COVID-19 crisis and preparing for the long-term recovery our communities are facing.

The CARES Act (H.R. 748 – Pub. L. 116-136) provided critical funding for the Food Distribution Program on Indian Reservations (FDPIR) for both food purchases ($50 million) and facility improvements and equipment upgrades ($50 million). To ensure this funding is allocated as quickly and effectively as possible, and to address additional issues with food insecurity in Indian Country, we urge the U.S. Senate Committee on Indian Affairs to include the below provisions in any upcoming COVID-19 relief legislation.

First, any subsequent legislation must clarify that the CARES Act FDPIR funding covers administrative costs, reimbursement of emergency food purchases, and allows Indian Tribal Organizations (ITOs) to procure food locally and regionally; and waive the non-federal cost share requirement and allow for necessary administrative flexibility for verifications, certifications, and service in FDPIR. As costs increase during this pandemic, so do the administrative costs and burdens on Tribal governments and ITOs. Additional flexibility for administrative costs, emergency food purchases, local and regional food procurement, and new construction costs will support ITOs to continue to provide safe and effective service to FDPIR participants. Further, waving the non-federal cost requirement and providing the administrative flexibility for
verifications, certifications, and service will alleviate burdens on Tribal governments and ITOs and allow them to focus on serving Tribal citizens.

Second, include a provision that temporarily waive the prohibition on dual use of the Supplemental Nutrition Assistance Program (SNAP) and FDPIR during the same month. Temporarily waiving this restriction will allow Native households more food options at a time when it is greatly needed, reduce administrative burdens on FDPIR and SNAP staff, and slow the inventory depletion at FDPIR sites. FDPIR sites are seeing increased take rates of food, because people are now taking the maximum they are allotted out of concern over local food availability. SNAP participants, especially those in rural areas are seeing limited availability of food, coupled with price increases. Being able to utilize both SNAP and FDPIR would ameliorate these problems.

Third, increase SNAP’s maximum benefit available to all households by 15 percent and the minimum benefit from $16 to $30 and delay implementation of the proposed and final SNAP rules. With the increasing numbers of people out of work, no — or extremely limited — job opportunities available, and with children being out of school across the country, the new round of COVID-19 response legislation must include additional support to SNAP participants. By increasing the maximum benefit for all households by 15 percent and raising the minimum benefit to $30, food insecure families in Indian Country and across the United States will have access to additional food necessary to weather this current crisis.

Fourth, provide parity and eligibility for Tribal governments and Indian Tribal Organizations in the Emergency Food Assistance Program (TEFAP). With one exception, Tribal governments and their agencies do not have full access to the Emergency Food Assistance Program (TEFAP), which is a critical component of the federal government response to food needs during emergency situations. Donated foods USDA provides for TEFAP only go to “State agencies” and then to recipient agencies for distribution. With the rapidly growing demand on FDPIR and the need for establishing additional methods of accessing and distribution of essential emergency foods during the COVID-19 crisis, Tribal governments, as well as FDPIR Indian Tribal Organizations, must be made directly eligible for the TEFAP program to ensure their citizens have access to essential food resources.

Finally, with markets drying up and production slowing down, many farmers and ranchers cannot afford to maintain their operations and make payments on their ag loans. To provide the relief necessary to help stabilize agriculture operations, Farm Service Agency (FSA) borrowers across the country will benefit from improved loan relief provisions, policies, and new programs to ensure continuity of operations and access to credit. Providing this relief will allow for stability in production in Indian Country, further improve the sustainability and resiliency of Indian Country agriculture. Any new legislative vehicle responding to the COVID-19 crisis must empower the Secretary of Agriculture to: (1) immediately defer of all FSA loan principal due for the 2020 and 2021 production years, and extend all loans 2 years; (2) offer payments to any
lenders if they reduce the interest rate of current loans by 2% and offer the same reduced loan payments and extensions to their borrowers; and (3) use FSA Farm Ownership loans to refinance real estate and other debt to aid in recovery from this crisis.

Attached to this letter are suggested legislative language for these provisions to support including them in the next COVID-19 relief bill. Thank you again for your leadership and support of Indian Country. We greatly appreciate your consideration of our request.

Sincerely,

Peggy L. Cavanaugh, Tribal Chairwoman
Spirit Lake Tribe
**FDPIR and SNAP/FDPIR Legislative Language**

**CLARIFICATION, ADDITIONAL AUTHORITIES, AND WAIVERS FOR THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.**

(a) CARES Act of 2020 Funding for the Food Distribution Program on Indian Reservations

(1) To support the immediate access and use of the appropriations provided to the Food Distribution Program on Indian Reservations as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), in Division B of the Coronavirus Aid, Relief, and Economic Security Act of 2020, the Secretary of Agriculture shall:

(A) Immediately utilize the appropriated funding for Indian Tribal Organizations and State agencies for food purchasing, including emergency food purchasing, facility improvements, new construction, and equipment upgrades, and allow for the funds to be used to cover any administrative costs;

(B) Waive administrative cost-sharing requirements to all funds provided to the Food Distribution Program on Indian Reservations under Division B of the Coronavirus Aid, Relief, and Economic Security Act of 2020; and

(C) Allow any remaining funds provided to the Food Distribution Program on Indian Reservations under Division B of the Coronavirus Aid, Relief, and Economic Security Act of 2020 to be used to cover any additional costs or expenses of the programs not accounted for under this provision.

(b) Purchasing Authority and Administrative Flexibility. —

(1) Beginning immediately after the date of passage of this Act, the Secretary of Agriculture shall allow all Indian Tribal Organizations and State agencies that operate the Food Distribution Program on Indian Reservations, as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) to have the authority to:

(A) Purchase foods locally and regionally that are nutritionally equivalent to foods provided and authorized for the program;

(B) Expand any service methods and service areas to be responsive to need; and

(C) Determine and exercise the necessary administrative flexibility, including verifications and certifications, to serve existing and new program participants as needed.

(c) Temporary Waiver of SNAP/FDPIR Prohibition.—

(1) Beginning immediately after the date of passage of this Act, the prohibition on simultaneous usage of the Supplemental Nutrition Assistance Program and the Food Distribution Program under section 4(b)(2)(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)(2)(c)) is initially waived/suspended through September 30, 2021, only to end after consultation with tribal governments to review any lasting economic impacts.

**TEFAP Legislative Language**

Amend 7 U.S.C. 7501(3) by inserting the following at the end:

(D) is an “Indian tribe” which has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), and an “tribal organization”
which has the meaning given the term in section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)).

Amend 7 U.S.C. 7501 by adding the following:
(11) Indian Tribes and Indian Tribal Organizations Eligibility
An “Indian tribe” which has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), and a “tribal organization” which has the meaning given the term in section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), shall be considered included within the definitions of “state,” “state agency,” and “eligible recipient agency” for the purposes of carrying out this program.

**FSA Legislative Language**
Create a new Section under 7 U.S.C. Chapter 50 – Agriculture Credit, Subchapter IV:
Deferral of Principal Payments for COVID-19 Relief 7 U.S.C. XXXX
(a) Irrespective of any other guidance in this title, the Secretary shall defer all principal payments and extend the maturity date by two years on any farm program loan existing or made during the 2020 and 2021 production years;
(b) FSA Farm Ownership Loans may be used for refinance of FSA Guaranteed Loans or any other real estate debt if such application is made before December 31, 2021; and
(c) The Secretary shall expend such funds as are needed to offer a 2 percent interest buy down on any existing agriculture debt through a guaranteed or direct loan provided the participating lenders grant the same principal deferral and maturity date extension, for 2020 and 2021.
April 13, 2020

The Honorable Dusty Johnson
U.S. House of Representatives
1508 Longworth House Office Building
Washington, DC 20515

The Honorable John Thune
U.S. Senate
511 Dirksen Senate Building
Washington, DC 20510

The Honorable Mike Rounds
U.S. Senate
502 Senate Building
Washington, DC 20510

RE: Solutions to Help Support Agriculture Producers during the COVID-19 Crisis

Dear members:

With the uncertainty we face as we continue the work of feeding the country, not to mention an ever-increasing section of the world, it is important that we have some action now that would allow us to make adjustments to our operations for the immediate future that ensure a safe, and affordable food supply. We have been squeezed nearly as much as we can stand; between rising operating costs, uncertain commodity markets, and ever increasing debt.

As the Chairman of the Lower Brule Sioux Tribe; a longstanding member of the Intertribal Agriculture Council, and on behalf of my Tribal producers, as well as agriculture producers all across the nation, I urge you to consider the following solutions to help us weather this current storm. I do so as a taxpayer as well, cognizant of the concerns we all share about our fiscal policy; and as such, this solution could be structured in a way that it costs the country very little, except for time.

For those of us with direct government loans, the solution is simple: an immediate deferral of principal due for the 2020, and 2021 production years, and extending the maturity date by 2 years. Doing so at this time would allow producers to focus on maintaining production levels,
and plan for the use of any production income. The alternative, for those fortunate enough to have had some time to amass equity, is selling our products into uncertainty this fall, enduring the shame of a delinquency beyond our control, and eventually Primary Loan Servicing. Prevailing interest rates will be significantly lower at that time and the result of PLS would a markedly lower return on the taxpayers investment in our businesses.

Let those of us with direct federal financing continue to pay that rate of return but extend those notes by two years. By keeping the current interest rate, program savings would be realized that could be used to benefit those of us with non federal ag debt. Our research indicates the number could be up to $20,000,000. Not only will this solution allow us to reposition our operations, it creates the preservation of farm loan program income that could be used for helping those of us with guaranteed or direct commercial credit.

Second, for all other ag producers with debt, whether it be guaranteed or commercial lending, the return on the taxpayer investment preserved in part one of this solution, could be used to ease interest rates and incentivize lenders across the country to further preserve our capacity to produce. Buying down the interest rate 2%, through a grant to lenders, not from taxpayer appropriations through the Commodity Credit Corporation, but from program income would save countless farmers and ranchers from disaster. In exchange, ag lenders offer the same patience afforded direct loan recipients; a two year extension with a deferral of principal.

The third part of this solution, also a no cost solution for the taxpayer, is authorization for an additional $3 billion in farm ownership loans, and to allow those of us in need to restructure our operation by leveraging our real estate equity to our benefit. As you are aware, FSA Farm Ownership Loans have zero subsidy rates, and serve as a valuable long term investment of taxpayer dollars.

Our concerns are echoed by the National Rural Lenders Association, American Bankers Association, Independent Community Bankers of America, Ag Credit ACA, American Farm Mortgage and Financial Services, National Sustainable Agriculture Coalition, National Association of Credit Specialists - FSA, and others, and we propose the following language to be included in any upcoming legislation being considered by the U.S. Congress to help provide a solution:

**Create a new Section under 7 U.S.C. Chapter 50 – Agriculture Credit, Subchapter IV:**

**Deferral of Principal Payments for COVID-19 Relief 7 U.S.C. XXXX**

(a) Irrespective of any other guidance in this title, the Secretary shall defer all principal payments and extend the maturity date by two years on any farm program loan existing or made during the 2020 and 2021 production years;

(b) FSA Farm Ownership Loans may be used for refinance of FSA Guaranteed Loans or any other real estate debt if such application is made before December 31, 2021; and
(c) The Secretary shall expend such funds as are needed to offer a 2 percent interest buy down on any existing agriculture debt through a guaranteed or direct loan provided the participating lenders grant the same principal deferral and maturity date extension, for 2020 and 2021.

I ask that you help to bring about these solutions, and help me, and producers like me all across the country, to continue providing the food and fiber at an affordable price that ensures that this country can prosper, in good times, and bad.

I thank you, on behalf of farmers and ranchers across Indian Country.

Boyd Gourneau, Chairman
Lower Brule Sioux Tribe
RESOLUTION NO. 87-2020

Upon a motion by Representative Beaulieu and second by Representative Pemberton, the following was enacted:

Whereas, many Tribal economies are supported by more than 80,000 agriculture producers that were financially stressed prior to the outbreak of COVID-19; and

Whereas, without the ability to grow food and provide nourishment, no other economic measures will be effective in dealing with the fallout of the global pandemic, and

Whereas, the CARES Act that was recently passed is proving to offer no meaningful assistance to Indian Ag producers; now

Therefore, be it resolved, that the Red Lake Band of Chippewa Indians does hereby request that the following actions be taken:

1. First, the Secretary of Agriculture is authorized to significantly reduce all FSA loan payments for the 2020 and 2021 production years, and extend all loans by 2 years.
2. Second, the Secretary is authorized to offer payments to lenders if they reduce the interest rate of current loans by 2% and offer the same reduced loan payments and extensions to their borrowers.
3. And third, the Secretary is authorized to use FSA Farm Ownership loans to refinance real estate and other debt to aid in recovery from this crisis; and

Be it further resolved, that the Red Lake Band of Chippewa Indians supports introduction and passage of the following legislation proposed by the Intertribal Agriculture Council which would create a new Section under 7 U.S.C. Chapter 50 - Agriculture Credit, Subchapter IV:

Deferral of Principal Payments for COVID-19 Relief 7 U.S.C. XXXX

(a) Irrespective of any other guidance in this title, the Secretary shall defer all principal payments and extend the maturity date by two years on any farm program loan existing or made during the 2020 and 2021 production years;

(b) FSA Farm Ownership Loans may be used for refinance of FSA Guaranteed Loans or any other real estate debt if such application is made before December 31, 2021; and

TRIBAL COUNCIL  Organized April 18, 1918  (Revised Constitution & By-Laws, January 6, 1959)
RESOLUTION 87-2020 (cont.)

(c) The Secretary shall expend such funds as are needed to offer a 2 percent interest buy down on any existing agriculture debt through a guaranteed or direct loan provided the participating lenders grant the same principal deferral and maturity date extension, for 2020 and 2021.

FOR: 10
AGAINST: 0

We do hereby certify that the foregoing resolution was duly presented and enacted upon at the Regular Meeting of the Tribal Council held on Tuesday, April 14, 2020, with a quorum present, at the 7 Clans Casino Event Center, Red Lake.

DARRELL G. SEKI, SR., CHAIRMAN

SAMUEL R. STRONG, SECRETARY