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**UNITED STATES COMMISSION ON CIVIL RIGHTS HEARING  
FAIR EMPLOYMENT PRACTICES  
MONTANA**

**AFTERNOON SESSION**

*Saturday, April 14, 1973  
Federal Building  
Great Falls, Montana*



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C O N T E N T S

A F T E R N O O N S E S S I O N

Missoula Employers	3
Panel on Issue of Sex Discrimination	9
Wages Survey	16
Educational Institutions	32
State of Montana Employers	60
Federal Employers	71
Sex Discrimination at Bureau of Indian Affairs	93
Indian Employment at BIA	97
Bureau of Indian Affairs Panel	121



## AFTERNOON SESSION

(Saturday, April 14, 1973, Great Falls, Montana)

MR. CATE: The meeting will come to order.

The first thing, I have a telegram from Pierce Packing Company of Billings, addressed to the Chairman of the Montana Advisory Committee of the Commission on Civil Rights, "Regret to advise that the company representative which we have had previously scheduled to testify before your Committee is unable to attend the Saturday session due to illness". It is signed by the Pierce Packing Company of Billings.

The next witness that is scheduled is Mr. M. E. Britton, vice president and general manager of the Plum Creek Lumber Company. Is Mr. Britton here or a representative of the company? Mr. Muskrat, will you read into the record for us what information we do have as to their policies.

(Whereupon Mr. Muskrat read the information available.)

MR. CATE: Is there a representative of Inter-mountain Lumber Company here? Is there a representative from the Missoula White Pine Sash Company?

MR. UPTON: Yes.

MR. CATE: Mr. Upton, would you state your full name and your occupation for us, for the record?



1 MR. UPTON: My full name is Thomas J. Upton. I  
2 am the personnel manager of Missoula White Pine Sash Company.

3 MR. CATE: Mr. Upton, our investigators found  
4 that you had perhaps one of the best affirmative action  
5 plans of any company in the state of Montana. I was  
6 wondering if you would be willing to first of all tell us  
7 about your program and tell us about how you brought it  
8 into effect and what you find your remaining problems are  
9 and things of that nature.

10 MR. UPTON: I will attempt to cover your rather  
11 broad question there. We of course had to come to compliance  
12 with the requirements for federal contractors since we buy  
13 timber, we have a saw mill, and we buy timber from the  
14 federal government. We wrote a compliance plan, we made  
15 an analysis of the area, I got the figures through the  
16 Montana State Employment Service of the percentages in the  
17 Missoula area of minority groups and of women in the work  
18 force. Then we analyzed in our final plan, where we stood  
19 and we found that we were generally, in the minority group,  
20 we were within the percentage which is actually a very low  
21 percentage. I was surprised at the percentage they gave  
22 us since there was no real guideline for females, what  
23 percentage of females would be a target or a goal. We were  
24 at that time, I believe, in the initial analysis, around  
25 11 or 12% female. We set a goal of 15% for 1972 and we met



1 this goal in October, and we also increased our minority  
2 in 1972.

3 In order to do this we suspended taking any  
4 applications from any source and I made arrangements with  
5 the Montana State Employment Service to furnish us in the  
6 three categories, first of all minority people, female or  
7 Viet Nam veterans in support of the Presidential Executive  
8 Order covering hiring of Viet Nam veterans. Basically  
9 what I would do and we did for a little bit until we came  
10 up to what we were after, I would call my contact man over  
11 there if we had an opening as we had an opening and advised  
12 them that we had one, two, whatever it happened to be. We  
13 told them that we were perhaps a little low in female, and  
14 they would send over females. We rejected no one that they  
15 sent. We hired them. We did some screening, of course, if  
16 you had a job on a green chain, you couldn't send somebody  
17 over that weighed 110 pounds, but they need initial  
18 screening for this and through this method we were fortunate  
19 that we did have a bit of turnover last year. We did  
20 bring up our females and our minorities. I think Mr.  
21 Muskrat has our report except the last one which we just  
22 completed which would be for March, through March 15 pay  
23 period, which corresponds to the last one. We had 200 --  
24 all right if I read this I guess. We had 240 total employees,  
25 this is down 33 people from last year at the same time. Of



1 these 240 we had 39 total female or 16%. Of our minority  
2 group employees we had one American Negro, 15 American and  
3 Indian extraction, and males, they were males, 1 female  
4 American Indian extraction for a total minority of 7%.

5 MR. CATE: Have you experienced any particular  
6 problem with the training of these personnel in the type  
7 of work, first of all, what type of work are these minority  
8 people doing?

9 MR. UPTON: Basically we have a very small salaried  
10 staff, most of the turnover, particularly all the turnover  
11 in 1972 was in production employees. We are a unionized  
12 plant and any new employee has to start at the bottom at  
13 common labor. Now common labor isn't necessary in our  
14 plant, our main production is mill work which is windows,  
15 furniture parts, this sort of thing. We do have the saw  
16 mill but that produces stock for this plant. This would  
17 consist of common labor, feeding materials into machines  
18 or sorting stock as it's cut. We really don't have a  
19 problem any more than with one than with the other. You  
20 are going to have some people that are all thumbs and  
21 it doesn't matter what group they belong to. Occasionally  
22 we have to reject somebody or advise them, of course we  
23 move them around and give them a chance on other jobs, you  
24 have to do this.

25 MR. CATE: Have you had any particular problem in



1 the minority people getting into the unions as such?

2 MR. UPTON: No, according to our contract, you  
3 see, anybody we hire has 30 days to join the union, if  
4 he pays his initiation and he is a member of the union  
5 they can't reject him, never tried to for any reason  
6 either.

7 MR. CATE: Any other members of the Committee  
8 have any questions of this witness?

9 MR. MUSKRAT: Mr. Upton, we have heard from a  
10 lot of other employers. We have heard from lots of other  
11 employers this morning saying that Indian people simply  
12 do not apply, women don't apply, they can't find them,  
13 have trouble hiring them. It is my understanding what  
14 you do is pick up the telephone and tell the State  
15 Employment what you need and they send them to you.

16 MR. UPTON: We have never had a problem of  
17 them sending over who we wanted.

18 MR. MUSKRAT: If these employers really wanted  
19 to hire minority people, all they have to do is call the  
20 State Employment Service?

21 MR. UPTON: I have had no problems.

22 MR. MUSKRAT: This is the way you do it?

23 MR. UPTON: Yes, it's that simple. They have  
24 got backlogs of lots of people in Missoula, of all people.

25 MR. DILLON: Let me ask you, Mr. Upton, do you go



1 on a statewide program in your solicitation of Indians or  
2 minority people?

3 MR. UPTON: No, I never found it necessary to.  
4 We can always find enough right there.

5 MR. DILLON: Everybody is willing to work?

6 MR. UPTON: I beg pardon?

7 MR. DILLON: In other words, everybody is willing  
8 to work?

9 MR. UPTON: It seems to me, yes. There is an  
10 organization there in town, I think they call it the  
11 Quakwe, I think it's sponsored through the University,  
12 they'll make references too.

13 MR. DILLON: Do you go pretty much by reference  
14 or just public solicitation for this minority help?

15 MR. UPTON: No, we get them right from the  
16 State Employment Service. They have got them registered and  
17 ready to go to work and send them over. We don't take any  
18 applicants, we refer them over to the State Employment  
19 Service because I tell them we have got three categories we  
20 can hire in and that is all we have been hiring, there is  
21 plenty of that.

22 JUDGE BENNETT: In following that policy, have  
23 you had an opportunity to compare the difficulty of training  
24 and working these people into your system as compared to the  
25 time when you were taking them just without reference to



1 their minority status?

2 MR. UPTON: I don't see any big difference, no,  
3 I really don't. As a matter of fact it has taken a lot of  
4 the load out of my office, I don't have to do a lot of  
5 interviewing.

6 JUDGE BENNETT: Having this personnel hiring  
7 policy hasn't been any great burden on your personnel  
8 setup?

9 MR. UPTON: It's rather convenient.

10 MR. CATE: Mr. Upton, thank you very much for  
11 appearing to testify today. Is there a representative  
12 here yet from Intermountain Lumber Company?

13 Is the witness Caroline Wheeler present?  
14 Are you prepared to testify at this time?

15 MS. WHEELER: Yes.

16 MR. CATE: Would you like to come forth to  
17 testify please.

18 (Sarah Steensland also stepped forward)

19 MR. CATE: Would you ladies state your names and  
20 your occupations for the record please?

21 MS. STEENSLAND: I am Sarah Steensland and  
22 Chairman of the Department of Home Economics at the  
23 University of Montana, Missoula.

24 MS. WHEELER: I am an instructor in the English  
25 Department at the University of Montana.



1 MR. CATE: Mrs. Steensland, I understand that  
2 you have some familiarity with the hiring practice as  
3 well as the faculty assignments in relation to tenure at  
4 the University system, is that correct?

5 MRS. STEENSLAND: Yes sir.

6 MR. CATE: Would you tell our committee about  
7 those practices?

8 MS. STEENSLAND: I am in charge of the Department  
9 of Home Economics and I pretty much do the training and  
10 recruiting for our department. At the present time we  
11 are 100% female. That is fairly common in the Department  
12 of Home Economics and the market for the faculty of home  
13 economics hasn't been tremendous in the last few years,  
14 it's been rather hard to find personnel.

15 MR. CATE: Could you tell us in what respect the  
16 present policy of the University differs from men and  
17 women, do women, can you speak in a broader sense than  
18 just the Department of Home Economics?

19 MS. STEENSLAND: Well, I don't know that they  
20 differ as far as recruitment. The recruitment in the past  
21 has been in its way the department chairmen are responsible  
22 for seeking out people who are available to find the kind  
23 of position that they are looking for either through the  
24 professional organizations or through the professional  
25 journals, the way I do it. I am not personally acquainted



1 with how other department chairmen do it. Once we have  
2 screened somebody out and they are referred to the dean  
3 of this college for a personal interview and if the whole  
4 department favors accepting this person or hiring this  
5 person, they are usually asked to join.

6 MR. CATE: Your University of course has an  
7 affirmative action program?

8 MS. STEENSLAND: Yes.

9 MR. CATE: Is there any difference at this time  
10 in the salaries that are paid to individuals that hold the  
11 same qualifications and have the same duty assignment?

12 MS. STEENSLAND: Yes, you mean between the men  
13 and women?

14 MR. CATE: Yes.

15 MS. STEENSLAND: Yes, at least our studies reveal  
16 this on the university campus.

17 MR. CATE: Do you have some figures that you  
18 might recite to our Committee in relation to that?

19 MS. WHEELER: The HEW investigation revealed in  
20 response to that question that the average salary for women  
21 faculty members averaged 85% of the average male faculty  
22 salary. This has not yet been corrected. The affirmative  
23 action plan was sent in to HEW in January and it's been  
24 returned apparently it has been on campus for a week but  
25 hasn't been publicized yet. I don't know exactly what



1 measures have been taken to correct that, but it should  
2 be within the men's salary, the women's salary should be  
3 aligned to match those of men and the rest of the policies  
4 should be implemented for more active recruitment of women.

5 The biggest problem that was found was under-  
6 utilization of women as well as the differences in salary.

7 MR. CATE: Underutilization differences in work  
8 assignments?

9 MS. WHEELER: No, just as many women on the  
10 faculty as you would expect for the size of the faculty,  
11 about 45 full-time women and there is a faculty of over 400  
12 and as I understand it, although I haven't seen the plan  
13 since it was presented and apparently approved, the  
14 percentages have been set forth for each department too,  
15 a quota has been set up. There will be a five-year plan  
16 for reaching that quota of women in each department.

17 MR. CATE: In the past has there been some  
18 discrepancies then between the assignment for any female  
19 professor as compared to a male professor as related to  
20 extra-curricular activities or classroom assignments, do  
21 women have more load to carry?

22 MS. WHEELER: Not more of the teaching load I  
23 don't think; all that was found was that they are not  
24 utilized on committees and not given positions within  
25 the University that give them any power, any policy,



1 these policy decisions, there were no women.

2 MR. CATE: With relation to tenure, was there  
3 any discrimination between male and female?

4 MS. WHEELER: All that we have are just a general  
5 statistic that not as many women are tenured, but there  
6 are women who are not promoted as rapidly and we don't  
7 find as many in tenure positions as you would expect for  
8 the number of women who are there. They are concentrated  
9 in the lower ranks and they are in rank much longer than  
10 men, they stay in the same rank longer. There is no  
11 apparent justification for it in terms of qualifications  
12 or education.

13 MS. STEENSLAND: Those that are tenured who are  
14 female do not receive the salaries that the tenured males  
15 do either the study showed.

16 MR. CATE: The study that you did, did you  
17 personally conduct the study or was it conducted by a  
18 group --

19 MS. STEENSLAND: The original study was done by  
20 the teacher's union, there were two women early in 1971  
21 that went to the teachers union and said they thought  
22 there was discrimination existing so they thought it was  
23 more widespread than just two and they did a fairly thorough  
24 study of the faculty women. Those statistics they could get  
25 ahold of, we have a lot of women in lesser positions as



1 administrative assistants and secretarial and clerical  
2 staff. They were unable to get much assistance on that.  
3 When the report was given to the teachers union, they  
4 asked the female members of the faculty, there weren't  
5 enough belonging to the union and we formed our own  
6 organization and began meeting as a faculty union and  
7 progressed through that kind of organization. It was  
8 through them that we asked the university administrators  
9 to meet a deadline on making adjustments. That didn't  
10 turn out too well and then we went to HEW.

11 MR. CATE: All right, now is it your belief  
12 that this affirmative action plan that we do not have,  
13 will it reach these objectives, solve the problems that  
14 existed?

15 MS. STEENSLAND: From what we have been told,  
16 yes, we did our own affirmative plan and the administration  
17 did their own affirmative plan and we got together and  
18 pretty much on the same wave length although we have  
19 not seen it, we are told that it pretty much meets what  
20 we wanted.

21 MR. CATE: Was any requirement made in that  
22 or any presentation of any affirmative action for  
23 employment of minorities?

24 MS. WHEELER: That was a major portion of it,  
25 we didn't really come with those facts.



1 MS. STEENSLAND: We understand there is a  
2 University of Montana representative who does have the  
3 figures.

4 MR. DILLON: Let me ask you, the system is  
5 what it is and everything being a part of the minority  
6 group being women in the system, are you adverse, do  
7 you feel that there would be any repercussions in any  
8 way in regard to your testimony in that respect, do you  
9 have any --

10 MS. STEENSLAND: Being here?

11 MR. DILLON: Yes.

12 MS. STEENSLAND: Absolutely not.

13 MR. CATE: Thank you very much.

14 MS. STEENSLAND: May I make one more statement?  
15 I haven't been asked but in the analyzation of the  
16 salaries, because I represent an almost predominant female  
17 discipline on the University campus, when the salaries  
18 were compared rank for rank, male and female, we are  
19 left sort of hanging by the wayside because we had no  
20 male counterparts to compare our salary. It is something  
21 like that, I hope that when this is done that the  
22 departments are compared to departments, not just within  
23 the department.

24 MR. CATE: Especially that Department of Home  
25 Economics, it sounds like you need some men in there.



1 MS. STEENSLAND: Maybe next year I'll be  
2 testifying to the fact that I haven't hired any males.

3 MR. CATE: Is there any representative here  
4 to testify on behalf of Plum Creek Lumber Company,  
5 Intermountain Lumber Company?

6 Is Mr. Robert Swan from the University of  
7 Montana here please?

8 MR. SWAN: Yes.

9 MR. CATE: Would you state your full name for  
10 the record please?

11 MR. SWAN: Robert J. Swan, Civil Rights  
12 Desegregation Institute, Indian Studies, University of  
13 Montana.

14 MR. CATE: All right. I understand that in 1972  
15 you conducted a survey of schools on or near reservations  
16 to observe the nature of teacher aides in the schools?

17 MR. SWAN: Yes.

18 MR. CATE: You have prepared a survey as a result  
19 of that study, is that correct?

20 MR. SWAN: Right. The survey came out, as a  
21 result of a school in Box Elder, when a couple of teacher  
22 aides were wondering about their pay. Last fall they found  
23 out the secretary was getting \$2.50 an hour and she was a  
24 girl just graduated from high school with no experience.  
25 The teachers aides had complained to the superintendent,



1 one was a junior in college and one a senior and they were  
2 going to college in the COP program and as teachers aides  
3 they were receiving between \$2.15 and \$2.30 an hour. They  
4 wanted to know why the secretary was getting more than they  
5 were and she did not have any experience. At that time  
6 the superintendent called me and asked me what is a rate  
7 of pay for teachers aides in the state. I didn't know  
8 the answer so I made a survey with six major questions.  
9 I sent them out to 31 schools on or adjacent to Indian  
10 reservations. I had 26 responses and 22 of the schools  
11 indicated they employed teachers aides. One of the  
12 questions asked is what means do you use to pay your aides.  
13 Ten schools responded Johnson O'Malley, 14 replied Title I,  
14 8 general fund, 2 other. What is the starting scale for  
15 teachers aides an hour. The hourly scale ranged from  
16 \$1.85 to \$4.00 per hour. The monthly scale \$277 to \$400  
17 per month. The yearly scale was \$2500 to \$6900.

18 I also asked the question, what fringe benefits  
19 does your school provide to teachers aides, because that  
20 was one of the questions coming out of the Box Elder School.  
21 At this time the teachers aides did not receive any fringe  
22 benefits whatsoever. Of the schools that responded three  
23 stated they had PERS, two--health insurance, one--MEA  
24 associate dues, one--accident insurance, two--annual leave.

25 The fifth question was, do your aides receive



1 sick leave? Two said yes, for five days. One for six  
2 days, two for seven days, five for nine days, two for  
3 ten days, one as needed, and the one is the same as the  
4 teachers.

5 One of the major questions I was looking for  
6 was what is the education of the teachers aides. They  
7 ranged, 7 had high school, 4 high school plus, 2 one-year  
8 of college, 4 two years of college, 2 three years of  
9 college, and 1 four years of college.

10 MR. CATE: As a result of your study, did you  
11 make some recommendations.

12 MR. SWAN: Yes, the recommendation we made is  
13 the -- the number one recommendation, if I may read it,  
14 the survey reads, there is no uniform starting scale for  
15 instructional aides in the schools that participated in  
16 this survey. Instructional aides should be compensated  
17 adequately for duties performed and the degree of education  
18 achieved above a high school diploma or GED. In any  
19 salary schedule there should be conditions included for  
20 merit increases, cost of living increases, yearly increases,  
21 and other increases that professional staff members receive  
22 in their respective school districts.

23 The second recommendation we made was that  
24 instructional aides receive the same fringe benefits  
25 being offered to the professional staff in their respective



1 school district.

2 Recommendation No. 3, sick leave is a fringe  
3 benefit and should be given to instructional aides at  
4 the same rate as professional members of the staff.

5 No. 4, that instructional aides be encouraged  
6 to enroll in college extension courses, summer school,  
7 and any available education workshop that may further  
8 their educational goal. Indian aides are eligible for  
9 Bureau of Indian Affairs grants, Equal Opportunity grants,  
10 and State Fee waivers for summer school enrollment.  
11 Instructional aides should also be allowed to attend all  
12 workshops, seminars, and college courses that are offered  
13 to teachers in their area.

14 Recommendation No. 5, that each respective  
15 school district write their own policy statement concerning  
16 instructional aides, Appendix B is an excellent example of  
17 a policy statement.

18 Those were the five major recommendations that  
19 we made. As a result of this survey the Box Elder School  
20 has given increases to their teachers aides. They have  
21 raised the fringe benefits to include sick leave and  
22 insurance benefits and when a teachers aide substitutes  
23 for a teacher she is compensated for that like any other  
24 teacher would be. Before she was paid at the rate of \$2.00  
25 an hour as a substitute teacher.



1           In certain areas surrounding the Indian  
2           reservations where these Indian aides are being used,  
3           they were not being paid as high a scale as they were  
4           elsewhere. I did not take it into consideration in the  
5           survey I did, I did not survey the other schools in the  
6           state of Montana because there is something like 1700  
7           school districts which our program doesn't have the  
8           money to do a survey as such. The reason I did the  
9           survey was that part of our program surveys opportunity  
10          at the schools, this was a request made by the schools.

11           MR. CATE: How many of these teachers aides  
12          involved in your study were of the minority group, if  
13          you know?

14           MR. SWAN: I could say right off the top of  
15          my head, 90%, I'd have to go back and look at each form.  
16          I know one was paid \$6900 per year was a non-Indian but  
17          most of the aides in these schools are Indian.

18           MR. BIGHORN: Mr. Swan, in your investigation  
19          and in your observations, maybe you can explain a little  
20          bit on the reservation and public school systems where  
21          they have Johnson O'Malley programs or funds, and they  
22          employ Indian teachers aides, did you find that the  
23          teacher aides are funded from sources other than Johnson  
24          O'Malley? The reason I ask this question, maybe you can  
25          answer that one too, my concern, my point is that sometimes



1 it appears that they hire White teacher aides with other  
2 monies and pay them more and they hire Indian aides and  
3 pay them less. Now, is there anything with reference to  
4 that that you can answer to?

5 MR. SWAN: Most of the money being paid to  
6 aides on salaries, comes from Johnson-O'Malley and Title I.  
7 I did not survey salaries paid non-Indian teachers aides  
8 and Indian teachers aides.

9 MR. DILLON: Mr. Swan, I read over your report  
10 here pretty fast and I pretty much, it's a very positive  
11 report, very well written. From what I can gather the  
12 way it looks, it's pretty much a financial statistical  
13 sort of thing but in the socio aspects of the thing, did  
14 you find in your survey or your investigation, any feeling  
15 toward the Indian COP trainees on the part of the non-Indian  
16 teachers, that they felt they were going to be displaced,  
17 I note that is missing in your report.

18 MR. SWAN: I did not measure this in my survey,  
19 I worked with the schools on the Blackfeet Reservation,  
20 Rocky Boy, Fort Belknap and Fort Peck, and I have not  
21 documented any of the things that have been told me by  
22 teachers aides or teachers or anything like that. There  
23 are feelings within the school that this may happen.

24 MR. DILLON: Have you detected this instance  
25 here where you more or less have a pretty much a status



1        quo on the reservation, farmers wives and ranchers wives  
2        and this sort of thing were feeling more or less occupied,  
3        they felt that they were being threatened by the COP  
4        because I am from a reservation, that is why I am asking.

5                MR. SWAN: I can't answer that question because  
6        I only hear one side of the story when I usually go out  
7        to the schools. However, one thing that came out of the  
8        survey is that most Indian people hired in the public  
9        schools in the state of Montana are hired from federal  
10       funds. There are very few positions being funded from  
11       the general fund, Indian studies programs are usually  
12       funded through Johnson O'Malley. Most of the aides are  
13       funded through Johnson O'Malley and Title I. There are  
14       very few professional Indians working in the school system  
15       so the only person that an Indian child has to relate to  
16       usually is the teacher aide.

17               MR. SPANG: I would like to go to your recommendations  
18       for a second. Maybe I am reading something into this that  
19       I shouldn't be, but you make a positive recommendation and  
20       I guess you are inferring that it is a negative situation  
21       that exists, for instance in Recommendation No. 2, you  
22       state that instructional aides should receive the same  
23       fringe benefits as the professional staff. Evidently the  
24       schools offer different scales for benefits?

25               MR. SWAN: Yes sir.



1                   MR. SPANG: In Recommendation No. 4,  
2 instructional aides attend the, have the opportunity to  
3 attend workshops and seminars and college courses.

4                   MR. SWAN: In most cases, yes, the only  
5 workshops they get to is usually the Indian Education  
6 Conference which is held in Helena each year and  
7 Johnson O'Malley funds will pay for those people to attend  
8 that.

9                   MR. SPANG: I don't know if you care to answer  
10 this, what is the underlying reason, if you know, that  
11 exists, why are there differences in benefits, why are  
12 they denied the opportunity to take these workshops or  
13 college courses?

14                   MR. SWAN: I don't think the Indian people have  
15 an adequate public school system, to give an example, the  
16 school district that requested that survey, Box Elder,  
17 that school district is over 90% of the children attending  
18 that school are Indian. The school district lies adjacent  
19 to a reservation. Of the three board members they are all  
20 non-Indian and there is no Indian professional person  
21 employed within the school. The only voice the Indian  
22 community has within the school is through the Johnson  
23 O'Malley Advisory Committee which does not have very much  
24 voice in the school.

25                   There is actually no voice, no place where Indian



1 people can go in the school system and have a voice in  
2 this school and many of the schools in the state because  
3 they don't have the voting power. The way the school  
4 districts are set up, it's impossible for Indians to have  
5 a voice in that school.

6 MRS. PEDERSON: Mr. Swan, have you ever found  
7 in your survey the percentage of qualified Indian voters  
8 who voted in the school election?

9 MR. SWAN: No, I haven't.

10 MR. DILLON: Do you feel, Mr. Swan, that in  
11 regard to your last answer, not your last answer but  
12 an answer before, you watch pretty much the social aspect  
13 of the situation as such, but yet you seemed to deny that  
14 in your report and seemed to deny that in the answer you  
15 gave me before. I think really you have done a real  
16 thorough report on that. Don't you feel the socio-  
17 economic pattern of a survey would do more justice than  
18 just a financial statistical thing?

19 MR. SWAN: I don't think I have done an adequate  
20 job.

21 MR. DILLON: I think you have done a real good  
22 job, but I mean I think you could have gone a little  
23 further and extended it out a little more.

24 MR. SWAN: I have conducted surveys for the past  
25 two years in different aspects and I have found most people



1 respond to a one-page survey form much easier than a two  
2 or three page one, that is how come I limited it to a  
3 one-page form. I did not cover the socio or political  
4 aspects.

5 MR. DILLON: The thing we are interested in the  
6 civil rights desegregation institute is asking how you  
7 would justify that in the report. I am not criticizing  
8 you in that sense, we are talking about social things  
9 here and the minority aspects, I think the social pattern  
10 in the minority structure as such is important.

11 MR. CATE: I think, Mr. Dillon, Mr. Swan is  
12 planning to, in the future, to perhaps take a little  
13 deeper look into the social economic nature of the thing  
14 as it relates to minorities. You did hit an area that I  
15 wanted to inquire a little bit further about, the control  
16 of school boards. You indicated that your school board,  
17 particularly in this area, Box Elder, is controlled entirely  
18 by the White people, and that was because of the way that  
19 the law is set up. Could you expound a little bit further  
20 on that and tell us what you know about that subject and  
21 not only in the high school district but throughout the  
22 state of Montana if you are familiar with it.

23 MR. SWAN: Box Elder is one of the ones I am  
24 most familiar with, I am from the Box Elder area.

25 MR. CATE: That is fine.



1 MR. SWAN: Would you like more comment on this  
2 district?

3 MR. CATE: Yes, I would.

4 MR. SWAN: The school district is set up adjacent  
5 to the reservation, the borderline, the fence line to the  
6 school. The reservation, Rocky Boy Reservation, is right  
7 next to the school district. There is no high school on  
8 the Rocky Boy Reservation, therefore, students are bused  
9 from the agency area which is 14 miles from the Box Elder  
10 community to the Box Elder school.

11 In that school there is over 90% Indian from  
12 K through 12. Indian people have a choice of sending  
13 their children to a boarding school out of state, busing  
14 them to Box Elder 14 miles away, or bus them to Havre  
15 which is 35 miles away. The Rocky Boy community has  
16 expressed interest in having their own school and their  
17 own high school. That has not come about as yet.

18 As a result of this, the school district set up  
19 as such, that they do not have a voice within the school.

20 MR. CATE: The school district covers your  
21 reservation as part of the school district?

22 MR. SWAN: No, it doesn't.

23 MRS. PEDERSON: Is there a school district on  
24 the reservation, an elementary district?

25 MR. SWAN: The elementary district is on the



1 reservation for the Rocky Boy people, the high school  
2 students are included in the Havre School District which  
3 is 35 miles away.

4 REV. BECK: On your Rocky Boy elementary, you do  
5 have a school board that has an Indian on it, don't you?

6 MR. SWAN: Yes sir.

7 REV. BECK: But would it be possible to,  
8 realistically speaking, to elect at least a partially Indian  
9 board on the high school?

10 MR. SWAN: There have been Indians that has run  
11 for the school board in the past in Box Elder. However,  
12 there are very few Indians living in the community of  
13 Box Elder to vote for this person. Last year on the  
14 community at Rocky Boy, they made a recommendation to the  
15 Box Elder School to merge the high school districts and  
16 they advised them that if we merged we'll have voting  
17 power finally within the school. The board will increase  
18 from a three member board to a five member board with us,  
19 the Indian people with the major portion of the vote there,  
20 it might be 5 Indians in there instead of no Indians. At  
21 that time the school board in Box Elder did not want to  
22 merge with the Rocky Boy High School District to make it  
23 one district.

24 MR. BIGHORN: You mentioned that the school board  
25 is all White and there are no Indians on that school board,



1 is that correct?

2 MR. SWAN: Yes.

3 MR. BIGHORN: And it is my understanding that,  
4 correct me if I am wrong, you are employed by the University  
5 of Montana on your desegregation study, is that correct?

6 MR. SWAN: Yes sir.

7 MR. BIGHORN: Doesn't your job, for you to  
8 cooperate with the Box Elder district, must you get the  
9 signature and okay from the school board of the Box Elder  
10 school district, in other words do they have to agree to  
11 work with you, you know, together on this project in  
12 other words?

13 MR. SWAN: Yes.

14 MR. BIGHORN: You have that cooperation there?

15 MR. SWAN: Our project only works with schools,  
16 only if the state wants us to come in to work with them.  
17 Title IV is the project, the Equal Education Opportunity  
18 Program, we do not have any enforcement power within the  
19 Civil Rights. Our objective is to sensitize and make  
20 aware to the non-Indian the uniqueness of the American  
21 Indian student in the school districts that we work with.

22 MR. DILLON: The idea of merging the two school  
23 systems, is that apportioned according to how -- how is  
24 that apportioned, by choice or is it by according to the  
25 voting district and this sort of thing the same as you would



1 have in your statement, is it the legislature or anything,  
2 in the legislature, is it by choice from the people  
3 themselves?

4 MR. SWAN: The district was set up years ago,  
5 I don't know how many, set up that way. The BIA dayschools  
6 on the reservation, in the late '50's when the Havre school  
7 district took over the district, the BIA at that time ran  
8 the dayschools. They had the elementary, K through 12 at  
9 that time. Three years ago the Rocky Boy people decided to  
10 form their own school district, elementary school district,  
11 which they did but they did not at that time have the high  
12 school district incorporated in the new district they were  
13 creating.

14 MR. DILLON: The reason I asked that, there was  
15 some complaint, some people were saying that they were being  
16 gerrymandered up there in Fort Belknap. That is the  
17 reason I asked that.

18 JUDGE BENNETT: This probably doesn't have  
19 anything to do with equal opportunity, but I would like  
20 to know if in your surveys you have ever compared, taken  
21 a look at a school and the number of Indian instructors  
22 they have in that school and compared it with the supply  
23 of Indian teachers available. In this school where you  
24 have 90% Indians, the high school, you have no regular  
25 instructors, have you?



1 MR. SWAN: No sir.

2 JUDGE BENNETT: There are Indians in this  
3 particular case, did you take a look at the availabilities  
4 of teachers or just that the ranchers on the school board  
5 who constitute the school board don't want Indians teaching  
6 Indians?

7 MR. SWAN: I have not taken a look at that  
8 aspect. However, in the Box Elder School three years ago  
9 they had one Indian professional working in the school.  
10 The person was gone within one year. Last year they had  
11 one Indian counselor working in the school and he was not  
12 rehired this year.

13 MR. CATE: Part of the problem with getting  
14 Indian teachers, if they are going to go into the school  
15 system, the tenure problem, their jobs are filled by  
16 tenured teachers?

17 MR. SWAN: I have not looked at that aspect  
18 either. I would like to make one recommendation if I could.

19 MR. CATE: Certainly.

20 MR. SWAN: It seems within this hearing, it is  
21 very low from the public schools testifying at the hearing,  
22 I was wondering as far as the Commission goes, do they  
23 require the public schools to have an affirmative action  
24 plan also?

25 MR. CATE: Any institution that is receiving



1 federal funds can be required to have an affirmative  
2 action plan as well as any firm that is hiring over 15  
3 people, so institutions would be required, in fact the  
4 university system and the colleges and so forth have  
5 been required to put in an affirmative action program.  
6 I don't believe it's gotten down to the level of school  
7 districts, maybe in some areas it is.

8 MR. MUSKRAT: They have to sent off an affirmative  
9 action program every time they receive federal funds.

10 MR. CATE: I am not acquainted with this.

11 JUDGE BENNETT: How long has that been going on?

12 MR. MUSKRAT: The superintendent of public  
13 instruction showed me some of the forms, I have some if  
14 you care to see them.

15 JUDGE BENNETT: I would like to see the Box  
16 Elder Affirmation Action Plan.

17 MR. MUSKRAT: I don't have a copy.

18 MR. CATE: I would like to make your report part  
19 of our records if I might please.

20 I would like to afford the Intermountain Lumber  
21 Company an opportunity to testify. If there anyone here  
22 from Intermountain Lumber Company to testify?

23 We are running ahead of schedule so I wanted to  
24 make sure that Mr. Muskrat -- would you put into the record  
25 whatever information we have on Intermountain Lumber Company?



1 (Mr. Muskrat read into the record the information  
2 available on Intermountain Lumber Company.)

3 MR. CATE: Thank you, Mr. Muskrat. We will  
4 take about a five-minute recess.

5 (Recess taken)

6 MR. CATE: The meeting will come to order. The  
7 next panel is the educational institutions we have invited,  
8 the Great Falls Public Schools, the Montana State University,  
9 and University of Montana. Will the representatives from  
10 those three groups come forward at this time?

11 Would you gentlemen identify yourselves for the  
12 record please?

13 MR. DYE: C. C. Dye, Montana State University,  
14 Personnel Director.

15 MR. SORENSON: Carl Sorenson, Research Associate,  
16 The Office of Financial Research, University of Montana.

17 MR. EDWARDS: Don Edwards, Director of Personnel  
18 for Great Falls Public Schools.

19 MR. SCHILTZ: Mr. Edwards, would you state again  
20 your position with the Great Falls Public Schools system?

21 MR. EDWARDS: Director of Personnel.

22 MR. SCHILTZ: Does the Great Falls Public Schools  
23 system have an affirmative action program?

24 MR. EDWARDS: Not a written one, no, We are in  
25 the process of developing one.



1 MR. SCHILTZ: As I understand it, you along with  
2 most other schools have Title I funds, is that correct?

3 MR. EDWARDS: Right.

4 MR. SCHILTZ: And as a condition of having  
5 those funds, it is necessary for you to have a plan, is  
6 it not?

7 MR. EDWARDS: This was brought, the affirmative  
8 action plan, part of it was brought to my attention last  
9 fall that we should have, yes. Prior to that time I was  
10 not aware of the fact that we should have one.

11 MR. SCHILTZ: You say that program is in the  
12 works now as being formulated?

13 MR. EDWARDS: Yes.

14 MR. SCHILTZ: How far along have you got?

15 MR. EDWARDS: Well we are going to move along at  
16 a more rapid rate now having the opportunity to see the  
17 little blue book over there. It's been admittedly confusing  
18 in my mind relative to what should be contained in it. I  
19 talked earlier in the year with Mr. Muskrat about this and  
20 at one time I thought that there was a need for quotas to  
21 be established and things of those kind but now I understand  
22 that is not the idea at all, that the basic intent or  
23 basic philosophy is in this case that the school district  
24 would make a concerted effort to go to where the minority  
25 persons may be.



1 MR. SCHILTZ: In other words, as far as you know  
2 at this time, the plan will be to go out and seek out  
3 minority employees?

4 MR. EDWARDS: Right.

5 MR. SCHILTZ: What has been the practice in the  
6 past in the Great Falls Public Schools System, have they  
7 gone out?

8 MR. EDWARDS: Relative to minorities, no, I can't  
9 say that we have specifically gone out and looked for them,  
10 no.

11 MR. SCHILTZ: Do you in fact have any minority  
12 employees?

13 MR. EDWARDS: Yes.

14 MR. SCHILTZ: Any in the teaching field?

15 MR. EDWARDS: Yes.

16 MR. SCHILTZ: How many do you have?

17 MR. EDWARDS: I believe we have as of October,  
18 we had a total of 9 for Black, 2 American Indian, and one  
19 Oriental and 2 Spanish surnamed.

20 MR. SCHILTZ: And did you have any in the rest  
21 of your employment status?

22 MR. EDWARDS: No, none certified.

23 MR. SCHILTZ: Not teaching?

24 MR. EDWARDS: Non-teaching personnel, again as of  
25 October, we had 7 American Indians and 1 Negro.



1 MR. SCHILTZ: Do you have any idea of the number  
2 of minority students you have in the school system?

3 MR. EDWARDS: Approximately 550 to 600 I would  
4 judge through grade 12.

5 MR. SCHILTZ: That is substantial, isn't it?

6 MR. EDWARDS: Yes.

7 MR. SCHILTZ: Do they tend to be impacted in  
8 certain schools within the district?

9 MR. EDWARDS: Well, it's difficult to say, I  
10 feel that the predominant group within that minority group  
11 is Indian youngsters.

12 MR. SCHILTZ: And do they come from, most of  
13 them, say, in the elementary schools, do they attend one  
14 or two neighborhoods. Do you have one or two schools  
15 that are predominantly minority groups?

16 MR. EDWARDS: We have one, two, three, I would  
17 say three schools where you would find the greater  
18 concentration. One on the west side and one in the  
19 Longfellow Building and the Emerson Building.

20 MR. SCHILTZ: Have you had any applicants for  
21 positions in the school districts by minority personnel?

22 MR. EDWARDS: At the present time I have three  
23 from Blacks now.

24 MR. SCHILTZ: For teaching jobs?

25 MR. EDWARDS: For a teaching position, one is



1 expecting and the other one is on, working at parochial  
2 schools and the other one is currently on our substitute  
3 list.

4 MR. SCHILTZ: Do your application forms ask a  
5 person's racial background?

6 MR. EDWARDS: No.

7 MR. SCHILTZ: Do you require a physical examination  
8 of your teachers?

9 MR. EDWARDS: Once they are employed.

10 MR. SCHILTZ: What is that, is it a comprehensive  
11 physical examination?

12 MR. EDWARDS: No, I don't feel that it is, we  
13 check the patient for heart, hernia, and things of that kind.

14 MR. SCHILTZ: What is the purpose of that?

15 MR. EDWARDS: They also have to have a tuberculosis  
16 test, I think that is the primary thing, just large a matter,  
17 as I see it, as a point of general information relative to  
18 the overall health status of the individual.

19 MR. SCHILTZ: Don't let me put words in your mouth,  
20 I suppose that you will be the Equal Opportunity officer  
21 when this program is drafted and submitted, will that be  
22 your job?

23 MR. EDWARDS: As long as it deals with personnel  
24 I would suspect you are right, yes.

25 MR. SCHILTZ: I think that is all.



1 MR. DILLON: I would like to ask you about your  
2 minority professionals. Are they hired locally or were  
3 they recruited say statewide or nationwide or what?

4 MR. EDWARDS: As far as the Blacks are concerned,  
5 I think 100% are from the base. Let's say, the two Indians  
6 are working, I would say this would be more just a state  
7 level, we did not go out of the state. The one Oriental  
8 has been in Great Falls for a substantial length of time.  
9 He is currently a principal in one of our elementary  
10 schools so he was employed, well quite some time ago.

11 I am familiar with one of those people with  
12 the Spanish surname and he too has been here for a  
13 substantial length of time. The other one I frankly  
14 can't remember how long he's been here.

15 MR. DILLON: Your affirmative action proposal,  
16 will you step up your program, just limited to Great Falls  
17 or on a statewide basis. Will you solicit the colleges  
18 and that sort of thing?

19 MR. EDWARDS: It would be certainly on a statewide  
20 basis. I feel that in a verbal fashion we have been and  
21 are still doing this type of thing relative to an  
22 affirmative action in that I keep in contact with the  
23 placement offices at the universities within the state  
24 and I have indicated to all of them again verbally that  
25 we welcome applicants from any minority groups that are



1 available.

2 In the past we have gone -- the recruiting  
3 situation in the field of education -- you may probably  
4 be aware of this -- it has changed substantially in the  
5 last two years. Previous to that we would go from as  
6 far as Washington to Spokane in the west and Pueblo,  
7 Colorado, to the south, and Minneapolis and down through  
8 Nebraska in that direction because of the large turnover  
9 that school districts experienced. Now for the last  
10 two years we've confined I guess you might say our  
11 recruiting efforts to the state units of the university  
12 system.

13 JUDGE BENNETT: I would like to have some more  
14 figures about the situation as to impact of Indians on  
15 your schools here. When you referred to the three schools  
16 where you have minorities in attendance, were you talking  
17 about Indians and all minorities?

18 MR. EDWARDS: The question was referring to  
19 I felt the Indian youngsters, they are not all in these  
20 three schools, don't misunderstand me.

21 JUDGE BENNETT: But you have a major impact  
22 in those three schools?

23 MR. EDWARDS: The Indian youngsters are in  
24 those three buildings, the larger numbers primarily. It  
25 is K through 6, kindergarten through 6th grade.



1 JUDGE BENNETT: In those schools could you give  
2 me a figure for the total number of teachers you had in  
3 those three schools?

4 MR. EDWARDS: 20, 30, 50, around 60.

5 JUDGE BENNETT: And how many Indian teachers,  
6 professionals, do you have in those three schools?

7 MR. EDWARDS: I can't answer you right off, I  
8 don't know.

9 JUDGE BENNETT: Do you have two in the whole  
10 system?

11 MR. EDWARDS: In the teaching, classroom teacher  
12 situation, I am not sure what buildings they are assigned  
13 to.

14 JUDGE BENNETT: You have two classrooms with  
15 Indian teachers in the whole system?

16 MR. EDWARDS: Yes. These I would have to check  
17 with our administrative assistant for federal affairs, I  
18 think both of them are at the Longfellow Building.

19 JUDGE BENNETT: You have testified that Longfellow  
20 was one of the buildings?

21 MR. EDWARDS: Right.

22 JUDGE BENNETT: Where you have a substantial  
23 Indian impact, so two out of the 60 teachers at the three  
24 institutions, these teachers are Indians you believe?

25 MR. EDWARDS: Right.



1 JUDGE BENNETT: Then you have what, 6 teachers  
2 aides or something?

3 MR. EDWARDS: I am not sure what the title is,  
4 but there are 7.

5 JUDGE BENNETT: What are they doing, are they  
6 teachers aides?

7 MR. EDWARDS: They are teacher assistants or  
8 teacher aides, they are in the various programs, they  
9 have various titles, teachers assistants, teachers tutors,  
10 and assistant teachers, these kinds of things. I believe  
11 that they are all at the Longfellow Building.

12 JUDGE BENNETT: So you have at the Longfellow  
13 Building, you believe you have 2 Indian teachers and 7  
14 assistants?

15 MR. EDWARDS: I believe so, yes.

16 JUDGE BENNETT: And none at the other two?

17 MR. EDWARDS: Not to my knowledge, no.

18 JUDGE BENNETT: And at those other two would  
19 you venture a guess as to the proportion of Indian kids?

20 MR. EDWARDS: It would be very wild, I couldn't  
21 give you a --

22 JUDGE BENNETT: Would it be 15%?

23 MR. EDWARDS: Probably, possibly, yes, I think  
24 that would be a reasonable figure.

25 JUDGE BENNETT: Maybe 15% Indian kids and no



1 Indian teachers or advisors or counselors?

2 MR. EDWARDS: In the other two, right.

3 JUDGE BENNETT: Do you have a dropout problem?

4 MR. EDWARDS: In the Great Falls Schools, not at  
5 the elementary level.

6 JUDGE BENNETT: You do within the high school?

7 MR. EDWARDS: As they progress through we have  
8 a dropout problem of the Indian youngsters.

9 JUDGE BENNETT: I realize that schools have a  
10 tenure system and one year is not particularly significant,  
11 but over the long run, what about the supply, the avail-  
12 ability of Indian teachers or counselors?

13 MR. EDWARDS: In the last 16 years as I recall,  
14 all I can refer to with any degree of accuracy, I don't  
15 recall ever interviewing an Indian, I beg your pardon,  
16 there was one, one in the officean Indian applicant, that  
17 I know of.

18 JUDGE BENNETT: In 16 years?

19 MR. EDWARDS: Right.

20 JUDGE BENNETT: Did you ever write to the  
21 Employment Security agencies, teacher placement service,  
22 and specifically ask for the names of Indian applicants?

23 MR. EDWARDS: I have not, no.

24 JUDGE BENNETT: And where else do you write to  
25 get teachers within the state, to the university?



1 MR. EDWARDS: I have been in contact with all  
2 six units plus the two parochial schools.

3 JUDGE BENNETT: Have you ever applied to the  
4 six units of the university, specifically asking for  
5 Indian teachers and aides?

6 MR. EDWARDS: No. As I indicated earlier, I  
7 have indicated to the placement directors that we would  
8 certainly welcome applicants from -- I don't know whether  
9 I specified Indians or not, but minority people.

10 JUDGE BENNETT: It is your opinion, I take it,  
11 there is this shortage of Indian qualified Indian teachers  
12 and aides?

13 MR. EDWARDS: I can answer it in two ways. In  
14 the past, yes. Now I understand, and this is strictly  
15 rumor, that within the university system at this point,  
16 any time there are somewhere in the neighborhood of 450  
17 Indian students. How many are in education I don't know,  
18 but assuming that a reasonable number are in education,  
19 I would assume that in most positions I would make a  
20 definite effort to secure the services of some of those  
21 people, yes.

22 JUDGE BENNETT: There is no animus on your  
23 board of trustees against hiring an Indian?

24 MR. EDWARDS: None to my knowledge. The only  
25 charge I get is to hire the best person you can for the job.



1 Our policy indicates this and of course we have signed the  
2 equal opportunity sheet too.

3 JUDGE BENNETT: You are speaking for the elementary  
4 system?

5 MR. EDWARDS: For the entire system.

6 JUDGE BENNETT: In the whole high school area,  
7 you must have a substantial Indian impact, do you not?

8 MR. EDWARDS: The tendency is that at the 9th  
9 grade, the last year in junior high, along from the 9th  
10 grade to the 10th grade seems to be the critical years in  
11 terms of dropout, at least I believe this is correct. I  
12 have to look over there once in a while to get some of  
13 these things verified.

14 JUDGE BENNETT: Are you getting signals from  
15 over there?

16 MR. EDWARDS: Just when I speak of numbers.  
17 These are the two years when we seem to experience the  
18 greatest number of dropouts, the 9th grade in many cases  
19 is terminal as far as their education is concerned.

20 JUDGE BENNETT: In the 9th grade and 10th grade  
21 in the Great Falls School System, can you give me an idea  
22 of how many Indian counselors you have to say nothing of  
23 teaching?

24 MR. EDWARDS: To my knowledge, none. The only  
25 one with any experience in that respect is a counselor at



1 the high school whom I know has taught on a reservation  
2 a number of years back but not to Indians.

3 JUDGE BENNETT: None at all?

4 MR. EDWARDS: None.

5 JUDGE BENNETT: Any Indian teachers at 9th and  
6 10th grade levels here?

7 MR. EDWARDS: No.

8 JUDGE BENNETT: Thank you.

9 MR. MUSKRAT: You categorize your employees  
10 into two categories, certified and non-certified?

11 MR. EDWARDS: Essentially, yes.

12 MR. MUSKRAT: And do you count teachers aides  
13 and counselors as certified or non-certified?

14 MR. EDWARDS: Teachers aides and --

15 MR. MUSKRAT: Counselors?

16 MR. EDWARDS: Aides are not certified, counselors  
17 are.

18 MR. MUSKRAT: I see. Could you give me the  
19 number, the total number of teachers and a breakdown of  
20 minority groups of Black, Spanish surnamed, and American  
21 Indians who are certified persons please?

22 MR. EDWARDS: For certified we have a total  
23 of 1172 people who are certified in the state of Montana.  
24 581 are men, 591 are women, and I indicated earlier that  
25 as of October we have the 4 Black, 2 Indian, 1 Oriental,



1 and 2 Spanish surnamed.

2 MR. MUSKRAT: For the state of Montana or  
3 Great Falls district.

4 MR. EDWARDS: For the Great Falls public schools.

5 MR. MUSKRAT: Can you give me the same breakdown  
6 on the minorities for non-certified personnel please?

7 MR. EDWARDS: No, I can't. When I -- as I say --  
8 I don't know exactly when I mentioned the non-certified  
9 and said we have 7 Indians and 1 Negro, these I am sure  
10 of, excuse me, are associated with the following program --  
11 if you are referring to custodians and these kinds of  
12 things, to my knowledge, other than these I have mentioned,  
13 to my knowledge there are no minorities represented in the  
14 custodial area, the carpenters, plumbers and painters.

15 MR. MUSKRAT: In the non-certified area, could  
16 you give me the estimate of the approximate total employment,  
17 the total number of employees you have? The total  
18 non-certified?

19 MR. EDWARDS: Non-certified, roughly 450.

20 MR. CATE: In your application form, do you  
21 require a photograph?

22 MR. EDWARDS: It isn't required, no, there is a  
23 spot there and it's to me something we can eliminate if  
24 we are going to change the application form. People with  
25 whom I have talked I have so indicated it to them, they asked



1 about a picture and say it is not required but you may if  
2 you wish, but it's not a requirement.

3 MR. CATE: How many students do you have  
4 graduating from your senior high schools, from C. M.  
5 Russell and the other high school here last year?

6 MR. EDWARDS: I would say approximately 1200.

7 MR. CATE: Do you know how many of those were  
8 Indian people or minority people, do you have any statistics  
9 on that?

10 MR. EDWARDS: I don't have any idea, it would  
11 be a very insignificant number relative to the total.

12 MR. CATE: 10 or 20 or something like that?

13 MR. EDWARDS: I don't know.

14 MR. CATE: Thank you.

15 (Following is C. C. Dye's testimony)

16 REV. BECK: You represent Montana State University?

17 MR. DYE: I do.

18 REV. BECK: Would you state your name and  
19 address and position in the university system please?

20 MR. DYE: C. C. Dye, Personnel Director,  
21 Montana State University, Bozeman.

22 REV. BECK: How long have you been in your  
23 position?

24 MR. DYE: I took over as personnel director on  
25 the 19th of August.



1 REV. BECK: This year?

2 MR. DYE: That is correct. I was previously with  
3 the University Development and Alumni Association.

4 REV. BECK: At Montana State?

5 MR. DYE: Yes.

6 REV. BECK: You are familiar with the racial  
7 background of the state of Montana and the number of  
8 students attending your institution?

9 MR. DYE: Yes, this is correct.

10 REV. BECK: Do you know in the Montana State  
11 University at Bozeman, if they have an affirmative action  
12 plan that is spelled out in terms of goals and time tables  
13 and so forth?

14 MR. DYE: Montana State University has a draft  
15 plan and the reason I drafted it, it was patterned after  
16 the Utah State, Arizona State, and the reason it has not  
17 been implemented, although we are following an affirmative  
18 action guideline all the way through, is that the decision  
19 was made to appoint a university affirmative action officer.  
20 I handle primarily the classified personnel which are the  
21 clerical staff, the support staff for faculty. The decision  
22 was to seek out and hire an affirmative action officer for  
23 the university. I went into a hold status, Mrs. Molly  
24 Hatch was recently announced as the affirmative action  
25 officer. This job will go into effect on 1 July. In the



1 meantime she is on half time and I turned over all of my  
2 information to her and I just got it back here so that I  
3 could have it here, but that is the status we are at now.

4 REV. BECK: You have been aware of -- I realize  
5 that you have just been in your new position recently --  
6 has any federal agency ever contacted or made a review  
7 or investigation of any of the employment practices by  
8 your office recently or --

9 MR. DYE: You are asking an awfully loaded  
10 question. There is, as you well know -- yes, we have the  
11 Department of Labor, Mr. Lundigan out of, the representative  
12 out of Billings, he contacted us, a survey, some 19 months  
13 ago, as to equal pay for equal work which had to be in the  
14 area of housekeeper and custodians. Do you want me to  
15 give you the whole breakdown on this or how do you want  
16 me to go about it?

17 REV. BECK: Could you give us a summary of what  
18 their findings were and recommendations for the future so  
19 that you might implement this?

20 MR. DYE: They represented the housekeepers,  
21 they are in the dormitory, the campus living area, there  
22 are 17 housekeepers, all female, and they are in the  
23 Teamsters Union. On the other side of the fence, you have  
24 got 17 custodians, male, and they are in the laborers union.  
25 The problem was at this time the salary, the wages for the



1        custodians, they were making \$3.11 an hour and the  
2        housekeepers were making \$1.85 an hour. The work the  
3        university claims that the work is not the same, the  
4        Department of Labor said, well we'll see. It rested  
5        with the Utah office, Mr. Drew, the solicitor general in  
6        Denver, I visited the solicitor in December to find out  
7        what the status was, because it had been some 17 months  
8        since they had made the survey and the university had  
9        heard absolutely nothing.

10                We went there and tried to say, well look, you  
11        have got different categories of custodians, you have  
12        got different work for the housekeepers. When we got  
13        down to Denver and tried to find out where we were, we  
14        obtained a draft settlement provision from the solicitor  
15        general and came back and reviewed the situation. We  
16        then ran up the problem of the two unions that I mentioned.  
17        Now, we had had prior to this all male custodians on the  
18        service shop area in the laborers union, but we have  
19        managed, we now have some five women out of that 48 total  
20        crew that are female and doing an excellent job. There is  
21        very little turnover in the male, the custodians on the  
22        campus living area, and so we have had no vacancies. It's  
23        a daytime job as opposed to a nighttime job and the  
24        custodians in the service shop area, which takes care of  
25        the classrooms and the student union, this type of facility,



1 so we stand at this point in time with the solicitor  
2 general having filed a case with the federal district  
3 court on the equal pay for equal work, between the  
4 housekeepers and the custodians.

5 REV. BECK: Do you have any minority groups  
6 or women's groups in addition to this?

7 MR. DYE: No.

8 REV. BECK: You are not responsible for the  
9 academic hiring at all?

10 MR. DYE: I have been racking my brain in  
11 hearing the questions back there and I have some  
12 approximate things that I can give you.

13 REV. BECK: I would like to know how many  
14 teacher personnel you have and how many minorities are  
15 among them.

16 MR. DYE: All right. Basically, Montana State  
17 University has approximately 1600 total employees of which  
18 761 are classified employees, leaving approximately 839  
19 faculty representatives. Now, on the faculty representatives,  
20 I say I racked my brain as to what we have, we have two  
21 native American faculty, we have one Japanese faculty,  
22 two Japanese that are in the classified area, we have two  
23 native American in the unclassified area, we have one  
24 Philipino and one Black in the classified area. The  
25 Philipino and the Black are in the classified area. Now,



1 of the classified personnel, approximately 85% are female,  
2 the faculty, I cannot give you the exact total female to  
3 male, but however, the female faculty representatives are  
4 concentrated naturally in the school of nursing, home  
5 economics, education, and physical education areas. As  
6 for the engineering and agricultural, there are no  
7 representatives that I know of in there at this time.

8 REV. BECK: Do you feel in your position you  
9 will be able to initiate and encourage and promote hiring  
10 of minority persons so that these statistics would look  
11 a little discriminatory in the future, is that a possibility  
12 do you think?

13 MR. DYE: A great possibility. I would like to  
14 get some response from the other side since I have taken  
15 over this position in November, I attended a meeting in  
16 Helena that was -- June Wakefield, the district aide I  
17 believe, out of the Denver EEO office there, and made a  
18 very fine presentation and in that time I had written a  
19 letter to the Indian agency that would be hiring in the  
20 state of Montana, trying to seek out what type of work  
21 force you have, what can I send you as job vacancies that  
22 you would have that we could work together and fill. I  
23 heard from one representative from the Kootenzis and he  
24 referred me to the Bureau of Indian Affairs in Billings.  
25 I was in contact with Michelle Robinson, unfortunately she



1 became ill and we have not been able to get together.  
2 I actively would like to establish a rapport with these  
3 offices and I really don't know where to go. As I say  
4 later I wanted to get Wyman McDonald in Billings, I wrote  
5 to him and said I would be in Billings in February to  
6 try to get together and do this, I haven't heard a thing  
7 from him, but there is a problem as Michelle Robinson  
8 was saying, you people do not want to move from your  
9 particular area to Bozeman and admittedly it's difficult,  
10 no two ways about it.

11 I would welcome it, we have as I say two native  
12 Americans on the classified staff. Now there is one that  
13 is in a particular position, he walked, turned his keys  
14 and walked off and we have a little personnel problem  
15 there. I guess if I were really hard pressed he would be  
16 terminated on this basis. We have a little better atmosphere  
17 to be able to work in the university than in a business  
18 agency, but we have to get some source of people that are  
19 willing to come into Bozeman.

20 REV. BECK: You are aware there are minorities  
21 living in the Bozeman area?

22 MR. DYE: Oh yes.

23 REV. BECK: So that it would be possible to  
24 recruit your own city?

25 MR. DYE: Well, I know of one colored family that



1 is living in the city limits of Bozeman, we have students  
2 from minority groups, but as far as Indian families, native  
3 Americans living there, I don't know of any except those  
4 that are already on the faculty and on the custodial staff.

5 REV. BECK: Do you think, are you aware of  
6 any differences in the salaries among the teaching staff  
7 between men and women in terms of instructors, assistant  
8 professors and associate professors?

9 MR. DYE: No, there is none to my knowledge.

10 MS. JONES: You have mentioned you have a  
11 Molly Hatch?

12 MR. DYE: Yes.

13 MS. JONES: What will be her responsibility,  
14 will she actually be implementing the affirmative action  
15 plan?

16 MR. DYE: I would say that is definitely going  
17 to be the case, now how far this is going to extend,  
18 she'll have to work it out, she is going to be over the  
19 classified, as far as that program, or I am going to be  
20 handling that, is she going to be strictly contained with  
21 the faculty, that has yet to be defined. In our  
22 conversation as far as I am concerned, she should be for  
23 the total university but that is just my opinion on that.  
24 She will definitely not be a token figure.

25 MR. CATE: Mr. Dye, your affirmative action program



1 which you indicate is in the process of being worked out,  
2 when do you expect that to go into effect, do you have any  
3 projected dates?

4 MR. DYE: I would imagine that would be in  
5 effect in July, the guidelines established by the fall  
6 term.

7 MR. CATE: You intend to publish that so it's  
8 available to faculty members and other personnel, other  
9 than the administration?

10 MR. DYE: Affirmative, yes.

11 MR. BIGHORN: Mr. Sorenson, please state your  
12 address and present position for the record please?

13 MR. SORENSON: Yes, I live at 107 Arrowhead  
14 Drive, Missoula, Montana. I am a senior research associate  
15 in the office of financial research at the University of  
16 Montana in Missoula.

17 MR. BIGHORN: How long have you been in that  
18 particular position?

19 MR. SORENSON: I went to work in October of 1970.

20 MR. BIGHORN: Does your institution have an  
21 affirmative action plan?

22 MR. SORENSON: Yes, a written program was, I  
23 understand, submitted to the regional office for civil  
24 rights, Department of Health, Education and Welfare,  
25 submitted to that office in mid-February I believe of



1 this year.

2 MR. BIGHORN: Has any federal agency ever  
3 conducted a review of the affirmative action plan?

4 MR. SORENSON: Yes, it is my understanding  
5 again that an investigative team from that same office  
6 I just mentioned a moment ago did in fact perform an  
7 investigation I believe the latter part of last summer.

8 MR. BIGHORN: What was the result of that review?

9 MR. SORENSON: Well let me indicate this because  
10 I am using the term "it's my understanding", roughly the  
11 first of January I was given the responsibility of developing  
12 a utilization analysis relative to minorities and female  
13 employees at the University of Montana for the purpose  
14 of inclusion and institution of an affirmative action plan.  
15 At that time I was brought up to date on what the status  
16 of the various activities had been over the past. It was  
17 on the basis of the deficiencies brought to light as a  
18 result of that investigation that the university's program  
19 was presented. Now, did that answer your question?

20 MR. BIGHORN: I think it does for me, I don't  
21 know if there are any other questions.

22 MS. JONES: Mr. Sorenson, would you give us a  
23 breakdown of the number of minorities that are presently  
24 employed at the school?

25 MR. SORENSON: I don't have the numbers with me,



1 I certainly would be happy to make them available, do  
2 you want some rough estimates at this hour?

3 MS. JONES: I would like to have it put in the  
4 record if you think that is the way it was and it may be  
5 that according to the affirmative action plan there will  
6 be changes made?

7 MR. SORENSON: Yes ma'am.

8 MS. JONES: In what way?

9 MR. SORNESON: The minority utilization will  
10 roughly I believe double under the timetable established  
11 in the written program. I can't speak even relatively  
12 with female numbers but they should be substantially  
13 increased. I am sorry, I just don't have the numbers  
14 with me. It was recommended when we submitted, again it's  
15 my understanding, when the written program was submitted,  
16 it was recommended on the part of the Denver office that  
17 the information not be published, they may desire to  
18 modify certain sections of the plan, numbers and so forth.  
19 That is the response that was given to me.

20 MS. JONES: Do you have a copy?

21 MR. SORENSON: Checking the administration at  
22 the school, they indicated it definitely shall be for  
23 public use and so forth.

24 MR. MUSKRAT: When you return, would you be so  
25 kind as to send us a breakdown of the -- do you break yours



1 down the same way the Great Falls schools do, into  
2 certified and non-certified?

3 MR. SORENSON: No, would you like me to, would  
4 you like me as a statistician to give some of my viewpoints  
5 in terms of a bit of the problems and the troubles that  
6 I ran into as I attempted to do the kind of things that  
7 I thought were pertinent?

8 No. 1, the employee categories that are commonly  
9 used, I believe in the EEO-1 form and so forth, very  
10 difficult to apply to an institution of higher education.  
11 Now I suppose in the main we have academic and non-academic  
12 employees. Well, there are even far greater subdivisions,  
13 at least in my opinion, within each of those categories,  
14 not only in the academic area you have ranks in the other  
15 areas, they are pretty much classified positions as the  
16 gentleman on my left stated a moment ago.

17 In attempting to gain some consistency, simply  
18 trying to compare apples to apples so to speak, with  
19 approval, adopt different employee categories and the  
20 people from the office for civil rights agreed, basically  
21 we still have academic and non-academic but we recognize  
22 the ranks in the academic side. Again we have professors  
23 through instructors, and you have academic administrators  
24 and academic professors. We did an under-utilization  
25 analysis, and roughly did the same thing with the



1 non-academic positions, attempted to compare apples to  
2 apples. So I can make myself clear in terms of what our  
3 attempt was there --

4 REV. BECK: Will you be able to encourage the  
5 administrative positions to be opened up to women which  
6 probably I would assume are not filled now by women, most  
7 of the administrative positions I am sure, department  
8 heads and everything at the present time are probably men?

9 MR. SORENSON: Goals have been established  
10 by those employee categories, it is my understanding that  
11 every effort will be made to obtain them. One of the  
12 senior administrators at the institution was mentioned  
13 as the EEO officer and the letter of deficiency from the  
14 regional office indicated he was too busy an individual to  
15 perform the functions, so around the 1st of January the  
16 position was advertised, resumes called for, and I under-  
17 stand more than 200 applicants have applied and it is my  
18 understanding that this position will be filled hopefully  
19 by the end of this year by somebody on our campus.

20 MR. MUSKRAT: Mr. Sorenson, this document I  
21 have marked Exhibit G will suffice to give us a breakdown  
22 of the ethnic minorities and women employed by the  
23 University of Montana, I will mark it.

24 MR. SORENSON: You will have to run that one  
25 past me again.



1 MR. MUSKRAT: This document marked G will all  
2 of this together with all of the attachments give us the  
3 information that we need to give us a breakdown of the  
4 employment practices of the University of Montana as  
5 regards minorities?

6 MR. SORENSON: This is for non-academic, yes,  
7 it will.

8 MR. MUSKRAT: I would like to introduce this,  
9 Mr. Chairman, as Exhibit G.

10 MR. CATE: That is fine. On behalf of the  
11 Committee we thank all three of you for coming, especially  
12 Mr. Sorenson. I want to commend you for the interest that  
13 you have put forth and that the University at Missoula has  
14 put forth and we are aware of this and have been for some  
15 time. I think all of the institutions are in the lead.

16 MR. SORENSON: Well a very concerted effort has  
17 been put forth, we are hoping to get this document out  
18 on the land to explain it to various academic administrators  
19 who are involved. One of the ladies that made a comment  
20 earlier, I thought it was straight to the point, historically  
21 academic chairmen of departments have been responsible for  
22 the hiring and so forth. This has precluded or has had  
23 the potential for precluding female and minority individuals.  
24 To have a statement of policy set forth whereby steps are  
25 delineated, the EEO officer has to check the various points,



1 we certainly hope for improvement.

2 MR. CATE: Thank you, gentlemen. Next we have  
3 two witnesses in the area of state employers, Montana  
4 State Employment Service and the Montana Highway Department.  
5 We want the record to show Mr. Smith who is related to  
6 the Department of Labor has disqualified himself voluntarily  
7 from participating in this part of the examination. Would  
8 you gentlemen identify yourselves for the record please?

9 MR. SOFFTICH: I am Tony Sofftich, administrator  
10 of the Labor Standards Division, Inter-agency Agreement,  
11 we administer the Equal Employment Opportunity and labor  
12 compliance for the Montana Department of Highways and the  
13 heavy and highway construction.

14 MR. HOUSE: I am Vincent House, EEO officer for  
15 the highway department.

16 MR. CATE: Is Mr. Cloud from the Montana State  
17 Employment Service here by any chance?

18 MRS. PETERSON: I don't know where to start, you  
19 are going to both be answering the questions.

20 MR. HOUSE: I handle highway employment for the  
21 state, Mr. Sofftich handles contract compliance for  
22 contracting.

23 MRS. PETERSON: First I want to know some of  
24 these questions are going to be mixed up, that I have here  
25 for you, so you'll have a chance to answer, how many federal



1 aid projects currently are in operation now in Montana?

2 MR. SOFFTICH: I just don't have that figure,  
3 I am sorry, I didn't come prepared with the amount of  
4 projects that are pending or --

5 MRS. PETERSON: Well, do you know about how many  
6 skilled and unskilled workmen are involved on a full-time  
7 basis?

8 MR. SOFFTICH: On a full-time basis, heavy and  
9 highway construction is seasonally operated.

10 MRS. PETERSON: Yes, I realize that.

11 MR. SOFFTICH: As of January we did have 315  
12 employees, of that 315 employees there were 5 manager,  
13 19 supervisors, 29 foremen, 4 clerical workers, 25  
14 equipment operators, 30 mechanics, 35 truck drivers,  
15 40 iron workers, 45 carpenters, I am sorry, I am using the  
16 code number -- we have 5 officials, managers, 19 supervisors,  
17 29 foremen, 4 clerical workers, 98 equipment operators,  
18 19 mechanics, 18 truck drivers, 4 iron workers, 25  
19 carpenters, 5 electricians, 1 painter, 35 semi-skilled  
20 laborers, and 49 unskilled laborers.

21 Of that amount, 20 total minorities employed, of  
22 which 17 were American Indians, 1 was an American Indian  
23 woman, there were 2 Spanish surnamed, 4 apprentices and  
24 2 on the job trainees.

25 MRS. PETERSON: Well now would you have any



1 record during the building season as to how this would  
2 work because this would be your lowest employment now,  
3 wouldn't it?

4 MR. SOFFTICH: I couldn't give a figure on the  
5 various job categories, however, I can state that in the  
6 three years that we have been administering this program,  
7 we have increased our minority employment from 2% in 1970  
8 to a little less than 7% in 1971 and 8% in 1972. The  
9 month of January indicates that we have a minority of 16%  
10 employees, in the month of January of this year.

11 MRS. PETERSON: The bulk of them are American  
12 Indian?

13 MR. SOFFTICH: Yes.

14 MRS. PETERSON: You do employ quite a few, well  
15 of course on the highway projects quite a few are American  
16 Indians, they are employed in the summer months?

17 MR. SOFFTICH: That is correct, we don't employ  
18 them ourselves per se.

19 MRS. PETERSON: This is by the --

20 MR. SOFFTICH: It is on the employment of the  
21 contractors in the heavy highway construction.

22 MRS. PETERSON: You pretty well described the  
23 job categories in which the minorities work. Now what  
24 equal employment opportunity conditions have been agreed to  
25 by your department?



1 MR. SOFFTICH: We have gotten compliance from  
2 the authority of the heavy and highway contractors  
3 throughout the state. They are making extensive efforts  
4 in recruitment and training and initiating on the job  
5 training and apprenticeship programs. Our operating  
6 engineers in conjunction with the associated general  
7 contractors this past year has established an apprenticeship  
8 which they had never had prior to this time which will  
9 consequently, through a course of 4000 hours develop  
10 competent journeymen in every phase of the operating  
11 engineers industry. They have presently a percentage of  
12 44 minorities in their apprenticeship program which is  
13 doing remarkably well and the only thing that they don't  
14 have more apprentices is they don't have sufficient  
15 amounts of jobs for the continuity to properly finish  
16 out an apprenticeship.

17 MR. CATE: Mr. Sofftich, you say the majority  
18 have complied, I would like to know the names of the  
19 companies that have not complied and not cooperated with  
20 your particular agency?

21 MR. SOFFTICH: There really haven't been, I  
22 believe only one had one company that we have had to  
23 place in non-compliance, that was for fencing, they only  
24 employ an average of 3 or 4 people, consequently this type  
25 of a category of employment, it is constantly mobile, it is



1 not permanent in one particular specified area. At times  
2 it takes in an area of 50 or 60 miles in that type of  
3 contract. We have had reluctance with some of the  
4 contractors and it was through the efforts of our office  
5 that they have all come to compliance, we have every  
6 indication to believe that every contractor that is  
7 contracting for the state of Montana has made affirmative  
8 efforts toward obtaining minority employees by visiting  
9 all of the reservations, the Vo-Technical Centers, the  
10 Indian Alliances, the NCAAP, where they are in extensive  
11 contact.

12 MRS. PETERSON: Can you tell me how the state's  
13 equal employment opportunity division was organized?

14 MR. HOUSE: How it is organized?

15 MRS. PETERSON: Yes.

16 MR. HOUSE: For the external portion of it, our  
17 organization consists of three EEO officers, one secretary,  
18 plus myself as administrator. Of the EEO officers that  
19 are in our personnel, two are Indian, one is Black and one  
20 is White, and of course you have me as the boss.

21 MRS. PETERSON: The minority is the boss then.  
22 Then just what do these EEO officers do, do they check  
23 the jobs?

24 MR. HOUSE: They are constantly checking on the  
25 contractors to see what affirmative efforts they are doing,



1 and to see that those efforts do attain minority employment.  
2 They also visit all of the jobs, of course the reservations  
3 and all of the minority groups to ascertain as to the  
4 availability of such minorities and make recommendations  
5 to the contractors where such a supply is available for  
6 them.

7 MRS. PETERSON: Could you outline for me just  
8 what a compliance review is?

9 MR. HOUSE: A compliance review is basically to  
10 see if they are following the contract provisions which  
11 are contained in each contract as far as Executive Order  
12 11246 is concerned, and they must establish affirmative  
13 action, they must create quite a few problems and they  
14 must investigate to see that those provisions are being  
15 complied with.

16 MRS. PETERSON: Now can you tell our Committee  
17 if you find a deficiency as a result of a review like  
18 that, what do you do?

19 MR. HOUSE: I immediately contact the home  
20 office, not immediately, within a short period of time,  
21 and present all of the problems, go over with the contractor  
22 to see whether he is deficient in his contract provisions,  
23 we attempt to assist him to bring him into compliance and  
24 advise him how he can come into compliance and then we  
25 have a follow-up review to see if he has complied with these



1 things. If he hasn't then of course we would have to  
2 issue a cease and desist order.

3 MRS. PETERSON: Well now, could you tell our  
4 Committee when your last compliance review was held?

5 MR. HOUSE: I think our last compliance review  
6 was held in October.

7 MRS. PETERSON: And you made certain recommendations  
8 at that time?

9 MR. HOUSE: We found the review to be in compliance,  
10 the contractor had made all the effort. We have created  
11 a liason and a good public employer relationship between  
12 the contractors and the unions, inasmuch as most of the  
13 employment is under collective bargaining agreements.  
14 This took a little bit of doing, however, we do have the  
15 cooperation of the various craft unions that do have  
16 these hiring hall procedures and when the contractor calls  
17 for a minority, if they do not have him on their hiring  
18 list, they do allow the contractor to go out and recruit  
19 his own employee and accept him into membership.

20 Some of the unions do have a rather high  
21 initiation and dues, fees, they do provide these employees  
22 over a period of time to pay it up rather than to have to  
23 pay it at once. They are compelled, because of the  
24 collective bargaining agreement, to join the union once  
25 they have attained employment.



1 MRS. PETERSON: Therefore a contractor from  
2 a state highway job would not have the excuse that the  
3 union did not send him a minority person?

4 MR. HOUSE: Not any longer. Our contract  
5 compliance, Title VII, precludes them from using the  
6 hiring hall system as an excuse for not employing minorities.

7 MRS. PETERSON: I don't think I'll ask you about  
8 women in the State Highway Department.

9 MR. HOUSE: I would like to respond to that.

10 MRS. PETERSON: Okay.

11 MR. HOUSE: The Montana Department of Highways  
12 had as a special assignment attended the employment  
13 for a period of five months, a lady to seek out what  
14 availability there would be for the employment of women  
15 in heavy and highway construction. She had contacted all  
16 of the contractors, numerous letters to women's groups,  
17 and our response has been very pathetic. However, we  
18 do have in our laborers' training program one woman under  
19 training as a laborer. I would like to expand on the  
20 laboring category a little bit. She did pass that  
21 school, she completed the school and is presently employed  
22 by a contractor. This is in heavy and highway construction.

23 We have a tendency in the laboring classification  
24 to classify those people as nothing more than pick and  
25 shovel men as was commonly known which was the bulk of



1 laboring work in the olden days. No more is that type  
2 of work very predominant in highway construction. It is  
3 highly mechanized and there are skills in the laboring  
4 category that are required for them to be competent laborers.  
5 They are what we term semi-skilled. They operate these  
6 jackhammers, the compression machines, they work on the  
7 asphalt rakers, on the crushers, rock crushers, and  
8 consequently they are not in the category of labor as has  
9 been commonly known.

10 MR. CATE: Mr. Sofftich, that might be a little  
11 bit out of your area, but have you generally found the  
12 contractors that has worked with the Indian people, have  
13 they found them to be good employees, capable of learning  
14 about the machines and other equipment involved in  
15 highway construction?

16 MR. SOFFTICH: The minority people?

17 MR. CATE: Yes.

18 MR. SOFFTICH: Yes, we have found that where  
19 the minority individual stayed on the job, he was a good  
20 conscientious worker. However, your biggest problem that  
21 we do have in this field, is that the minorities are  
22 hesitant upon leaving the reservation, to accept employment  
23 too far away from their reservation.

24 MR. CATE: That is an area of cultural conflicts,  
25 I would like to inquire a little further on that. Are you



1 familiar with some of the -- any of the contractors, are  
2 they informed about the cultural habits of the Indian  
3 people such as feast days, pow-wows, visiting of relatives  
4 and things of that nature.

5 MR. SOFFTICH: I think most of the contractors  
6 are well aware of that and I feel most of them have bent  
7 over backwards to take that into consideration when such  
8 festive days or holidays as this occur. They have even  
9 went to the extent that where, when they first employed  
10 them, they furnished housing facilities and eating  
11 facilities, they have financed them and in some cases  
12 bought the necessary tools that were required for them  
13 to be employed.

14 MR. CATE: Thank you.

15 MR. SPANG: Mr. Sofftich, my name is Al Spang.  
16 I would like to respond to your last comment. You firmly  
17 believe that there is that kind of extensive activity on  
18 the part of employers of Indians that they do lean over  
19 backwards to give them time off and they have pow-wows  
20 and sermonize with no degradation attached to this?

21 MR. SOFFTICH: I really feel that the majority  
22 of them are that way. The biggest hangup that the  
23 contractors do have is when they are not notified about  
24 those persons, that they are to attend such a festivity,  
25 and consequently they do become irked and do reprimand in



1 most instances the employee when he does return back to  
2 his work. However, I am not aware that any of them have  
3 been penalized.

4 MR. CATE: Any other questions from anyone on  
5 the Committee to either of these gentlemen?

6 MR. BIGHORN: To follow Mr. Spang's comment, do  
7 you provide in-service training regarding Indians in  
8 regard to culture, in visiting homes, or visiting  
9 reservations, going home?

10 MR. SOFFTICH: Not I, sir, no sir. We are not,  
11 we don't have that. We merely are policing the contractors  
12 in a sense is what we are doing, we do not employ those  
13 people. We do have an agreement with the Associated  
14 General Contractors for the services of this nature which  
15 are being performed by them for this type of operation,  
16 for counseling and for providing training for them and  
17 this kind of thing. They also advance some of these  
18 minority workers with funds to enable them to go and  
19 participate in the training.

20 MR. CATE: There isn't any agency that you are  
21 aware of, is there, that actually goes out and explains  
22 to contractors or to employers within your area, some of  
23 these cultural differences that the Indian people have  
24 from the White?

25 MR. SOFFTICH: Only through seminars that we had



1 conducted in Helena for all of the minority groups, for  
2 all of the contractors in heavy and highway construction,  
3 for all of the unions involved in this. We had a two-day  
4 seminar and this information was disseminated to them at  
5 that time. We also co-hosted a seminar for the western  
6 states EEO officers in West Yellowstone this past year.

7 MR. CATE: We are going to take approximately  
8 a 15-minute break at this time.

9 (Recess taken)

10 MR. CATE: The meeting will be in order. The  
11 next panel consists of federal employers consisting of  
12 the Department of Labor, the Department of Defense,  
13 U. S. Forest Service, Department of Transportation.  
14 Would you gentlemen starting at the right like to state  
15 your name and occupation for the record please?

16 SAM PULLFREY: Sam Pullfrey, personnel coordinator  
17 for the non-appropriated funds at Malmstrom.

18 MR. PERKINS: Richard Perkins, Compliance  
19 Officer, United States Department of Labor, Wages and  
20 Hours Division.

21 MR. ERICKSON: Erik Erickson, OEO Coordinator,  
22 Department of Transportation.

23 Mr. Jakewith: Philip Jakewith, U. S. Forest  
24 Service.

25 MR. SCHILTZ: You are with the Malmstrom Air Force



1 Base?

2 MR. PULLFREY: Correct.

3 MR. SCHILTZ: And you said you were in charge  
4 of the non-appropriated funded employees?

5 MR. PULLFREY: That is correct.

6 MR. SCHILTZ: What are they?

7 MR. PULLFREY: Well, they are employees that  
8 are paid from non-appropriated funds as opposed to civil  
9 service which of course are appropriated funds.

10 MR. SCHILTZ: I see. What kind of work do  
11 these people do for the most part?

12 MR. PULLFREY: I have the NCO Club, the Officers  
13 Club, billeting, which would be all of transit housing,  
14 and the centralized base funds which consist mainly of  
15 recreation, morale and welfare division.

16 MR. SCHILTZ: Aside from minority personnel,  
17 there are several service or non-appropriated fund type  
18 of employees?

19 MR. PULLFREY: That is correct.

20 MR. SCHILTZ: How do you go about recruiting  
21 the employees under the non-appropriated funds?

22 MR. PULLFREY: I would say 99% is just word  
23 of mouth type of thing. We do no advertising.

24 MR. SCHILTZ: You mean someone, you let the word  
25 out that you need somebody in the mess and --



1 MR. PULLFREY: Frankly, we have applications  
2 on hand all the time, we don't have to advertise. The  
3 rate of turnover is such that advertising would be  
4 prohibitive through news media.

5 MR. SCHILTZ: You do have considerable turnover?

6 MR. PULLFREY: About 200%.

7 MR. SCHILTZ: How many employees do you have and  
8 how do they break down by minority groups?

9 MR. PULLFREY: Okay. We have a total of 183  
10 employees of which 31 are Negro, 4 Spanish, 4 Indian, and  
11 5 Oriental, leaving 139 other.

12 MR. SCHILTZ: How many do you have altogether,  
13 181?

14 MR. PULLFREY: 183.

15 MR. SCHILTZ: Roughly 40 minority?

16 MR. PULLFREY: Right. I think it would be,  
17 let's see, 43, about 24%.

18 MR. SCHILTZ: Do you have an affirmative action  
19 plan of any kind?

20 MR. PULLFREY: No sir.

21 MR. SCHILTZ: Do you contemplate having one?

22 MR. PULLFREY: I have had no directives of  
23 that nature. Of course, I think we have a fairly good  
24 representation with your percentages, we naturally being  
25 out on the base, I think we frankly haven't had to work too



1 actively with it.

2 MR. SCHILTZ: The percentage of minority  
3 employees that would be employed, I would like to know  
4 whether it is so that you make an effort to obtain  
5 minority employees, do you?

6 MR. PULLFREY: Not an aggressive, no sir.

7 MR. SCHILTZ: It is only an accident that you  
8 have that great a percentage?

9 MR. PULLFREY: I would say so, very frankly.

10 MR. SCHILTZ: Do you know whether some higher  
11 office at the base has an affirmative action plan that  
12 would guide your employees and possibly you are not aware  
13 of it?

14 MR. PULLFREY: Not to my knowledge.

15 MR. SCHILTZ: I don't have anything else.

16 REV. BECK: Do most of your employees come  
17 from relatives of military base personnel or do you draw  
18 employees in the city?

19 MR. PULLFREY: Both. I would say the largest  
20 percentage of our employees either work in the off-duty  
21 military capacity, in other words, military personnel  
22 working extra or a military dependent. I might point out  
23 that two-thirds, approximately two-thirds of our employees  
24 are part-time only. In other words, they probably work  
25 no more than 20 hours per week.



1           REV. BECK: And how many Indians do you have  
2 employed, they would all come from the city I suspect?

3           MR. PULLFREY: We have four and I believe they  
4 would all be from the city. I think of those four,  
5 three are full time.

6           REV. BECK: Would you consider them adequate  
7 employees, haven't had any particularly unusual problems  
8 because of their Indian background?

9           MR. PULLFREY: None whatsoever. It's pretty  
10 hard to keep track of -- with the rate of turnover that  
11 we have though, I mean when you talk about 200% a year  
12 it's pretty frantic.

13           REV. BECK: What I was driving at, would it be  
14 possible for you to recruit more Indian persons, rather,  
15 if you made some effort, would it be possible in the next  
16 couple years to have 10, 12 Indian people because they  
17 need jobs so badly, they may not know what is available  
18 at the base. Could effort be made so these people that  
19 have no job or might be on welfare could get off welfare  
20 if they knew about the employment at the military  
21 installation?

22           MR. PULLFREY: I have worked with Mr. Boudrey  
23 and one of our problems is when we are talking about these  
24 part-time jobs, they really aren't worthwhile, we are  
25 talking about \$1.70 an hour for 20 hours a week and then



1 with transportation on top of it --

2 REV. BECK: Could you recruit some Indian  
3 persons perhaps for any other type of job that would  
4 be full time, that would pay much more, would that be  
5 a possibility?

6 MR. PULLFREY: I think it's a definite  
7 possibility, the problem is that we have so very few  
8 positions in non-appropriated funds that frankly pay  
9 much of a wage aside from somebody digging up extra money,  
10 we're probably talking about a grand total of, out of 183,  
11 maybe 15 jobs.

12 MR. SCHILTZ: Mr. Pullfrey, I don't mean to  
13 embarrass you but we have a copy of an affirmative action  
14 plan for the Malmstrom Air Force Base. Possibly it hasn't  
15 been circulated to you yet, but it is for the calendar  
16 year '73, dated 10 January '73.

17 MR. PULLFREY: Yes?

18 MR. SCHILTZ: We are not going to introduce it  
19 into evidence but I wanted you to know it is there and it  
20 does cover all personnel.

21 MR. PULLFREY: Yes, well this is very possible,  
22 I haven't to my knowledge received this.

23 MR. SCHILTZ: I was in the Marine Corps and if  
24 I had ever received that, I would have had my initial on  
25 there. Maybe you don't do that in the Air Force.



1 MR. PULLFREY: Yes, we do. I haven't had it  
2 yet.

3 MR. SCHILTZ: I think that is all.

4 MR. CATE: Mr. Pullfrey, what could be done  
5 through your office to obtain more jobs for Indian people  
6 in the non-appropriated funds employees area?

7 MR. PULLFREY: I suppose what could be done --  
8 you mean by the various agencies that work with the Indians?

9 MR. CATE: Yes.

10 MR. PULLFREY: Frankly, the only one I have ever  
11 been in contact with is Opportunities Incorporated.

12 MR. CATE: The BIA has never inquired?

13 MR. PULLFREY: No.

14 MR. CATE: The State Employment, have they ever  
15 inquired whether or not you hired Indian people?

16 MR. PULLFREY: I have been contacted by various  
17 representatives of the State Employment but we never went  
18 into any discussion as far as minorities.

19 MR. CATE: Did you state when you contacted  
20 these people, do you state a preference for any particular  
21 minority?

22 MR. PULLFREY: Definitely not.

23 MR. SMITH: Mr. Perkins, you are substituting  
24 for Mr. Drew?

25 MR. PERKINS: That is correct, yes.



1 MR. SMITH: You represent the Department of Labor  
2 and their equal employment?

3 MR. PERKINS: No, I represent the Department of  
4 Labor as wage and hour compliance officer in reference to  
5 the equal pay law.

6 MR. SMITH: You wouldn't be too knowledgeable  
7 on the number of employees working for the Department of  
8 Labor in Montana?

9 MR. PERKINS: No.

10 MR. SMITH: As long as we have you here, I  
11 know your expertise in the field, would you on your own  
12 give us the facts and figures that you have run into  
13 as to the minorities, the under-utilization of women?

14 MR. PERKINS: As far as facts and figures, I  
15 could not give you anything definitely here. We basically  
16 do not check this type of information, my agency is an  
17 enforcing agency, the number of laws we enforce, part of  
18 them are equal pay and with reference to men and women.  
19 This law, the employer is covered under the fair labor  
20 standards act which is the federal minimum wage and overtime  
21 law. All of the employees are under the provisions of the  
22 equal pay. Here there are four basic requirements that  
23 would have to be met for the job to be considered equal.  
24 This is one, it has to be in similar working conditions.  
25 Now conditions here mean whether they work on the first



1 floor, the second floor or the basement is irrelevant,  
2 the working conditions are to be the same. The three  
3 requirements are, they have to have equal -- now here  
4 the factor which we go by, what the job requires. If  
5 a person has a masters degree and the job only requires  
6 a high school degree, the only requirement is a high  
7 school degree. The other education is irrelevant.

8 The other areas for example are equal effort --  
9 now this can be physical or mental. Our division has  
10 a number of cases, we compared physical and mental effort  
11 and used them, and in fact we have one case where the  
12 mental effort was as great or equal to the physical  
13 effort being expended.

14 The other one is responsibility in the area of  
15 equal responsibility, this takes into accountability  
16 supervising other employees, things of this nature.

17 The equal pay law up until July 1 of 1972 only  
18 covered what we referred to as non-exempt employees,  
19 that is a category of employees, if they were administrative  
20 or professional or outside salesmen, they were completely  
21 exempt from the minimum wage and equal pay and overtime.  
22 The amendment to the education act of 1972 changed this.  
23 Now all employees are under the equal pay, for example,  
24 this would take the institutional people, the education,  
25 it would take in the office manager, the comptrollers,



1 right down to, for example, we'd be comparing vice  
2 presidents of corporations now.

3 Like I say, when you come into the establishment  
4 you have to look at the job and check three or four  
5 qualifications, if these are met then the requirement is  
6 there that they would have to be paid equally by the firm  
7 as a bonafide staffing program and bonafide seniority  
8 system, then that could allow for differences in wages,  
9 but it has to be a bonafide program, it could not be for  
10 example a merit system for men only but not apply to women,  
11 that would be a non- -- not a bonafide system.

12 Through the law we enforce the age discrimination  
13 employment law passed in 1967. It sets up and protects  
14 the age brackets, 40 to 65. It applies to all employers  
15 who have 25 or more employees affecting interstate  
16 commerce. It applies to all employment agencies and to  
17 all labor unions.

18 What this law does is prohibit an employer or  
19 labor union or employment agency for using age as a factor  
20 for refusing to hire, refusing to refer, refusing to  
21 promote, to discharge or any other type of change in  
22 compensation or status of employment. When a person is  
23 in the age bracket, 40 to 65, and they use age as a factor --  
24 now the law prohibits also the employers and employment  
25 agencies and labor organizations from advertising, using



1 terminology which would discriminate against people in  
2 this bracket. Such terminology as "young boy", "girl",  
3 "age 25 to 35", "recent high school graduate", these are  
4 discriminations, in fact the position has been the  
5 terminology which would deter the person in the age  
6 bracket 40 to 65 from applying for a job is discriminating  
7 against that person. How this came about was because we  
8 have in the United States, there has been a tendency for  
9 older employees, once they have been terminated, to have  
10 tremendous difficulty finding re-employment.

11 In the area of minorities, the factor, the  
12 minority, he is in an age 40 to 65, he has two things  
13 going against him, his age and also the fact that he is  
14 a minority. Now briefly that's been the two major roles  
15 where we have laws, we have other laws, I won't go into  
16 those in that detail.

17 MR. SMITH: Thank you very much for that  
18 information, it is very valuable to the Committee and  
19 to others.

20 We do not have anybody with the Department of  
21 Labor and I think this will help the Committee to understand.

22 JUDGE BENNETT: Mr. Perkins, do you have anything  
23 to do with the Office of Federal Compliance?

24 MR. PERKINS: The federal compliance contract  
25 is outside the fact, it's in my administration but otherwise,



1 no.

2 JUDGE BENNETT: The same administration?

3 MR. PERKINS: The employment standards  
4 administration.

5 JUDGE BENNETT: Well what do you know about  
6 the federal compliance, is that an independent agency?

7 MR. PERKINS: The Office of Federal Contracts  
8 Compliance is a division which has enforcement of it.

9 JUDGE BENNETT: Division of the Department of  
10 Health?

11 MR. PERKINS: Of the Department of Labor, that  
12 has enforcement of the equal opportunity in government  
13 programs. It is my understanding that it is primarily in  
14 the construction field but they have other authority  
15 created, executive orders, this is what we work under.  
16 They are a division of the employment standards administration  
17 which is the Department of Labor.

18 MR. MUSKRAT: May I ask a question, Mr. Perkins?  
19 You are, well, I don't mean you coming out of order on  
20 our schedule, you were part of our "what can we do about  
21 it" segment of our program. Could I ask you what can I  
22 do about it, a question, if I am an employer and we just  
23 heard from one state employer here, to get in a little  
24 trouble with not paying equal pay for equal work. If I  
25 am an employer and I have some questions about this, can



1 I get some results from you or do I go to a private  
2 attorney?

3 MR. PERKINS: They can call our office, and  
4 get this advice free of charge and the fact that they  
5 may have a problem does not mean that we are going to  
6 come running out and check them and, for example, find  
7 them wrong. We do everything within our power to get  
8 them to correct it.

9 MR. MUSKRAT: Your primary purpose is to bring  
10 them into compliance, is that correct?

11 MR. PERKINS: Yes, it is.

12 MR. MUSKRAT: And if I am an employee who feels  
13 he is being discriminated against, then can I also come  
14 to you and file a complaint with you?

15 MR. PERKINS: Yes, they can file a complaint.

16 MR. MUSKRAT: How do you do that, how do I  
17 contact you or do I write the Department of Labor or how?

18 MR. PERKINS: They can actually call my office,  
19 they can write to the Department of Labor in Washington,  
20 D. C., I have had people slip notes under my door because  
21 I am out a majority of the time as you know.

22 MR. MUSKRAT: Can you give us your phone number  
23 and address in case there are some people who would like  
24 to contact you?

25 MR. PERKINS: My address would be, U. S. Department



1 of Labor, post office Box 2893, Great Falls, Montana.  
2 My telephone number of 453-1332. I have a counterpart  
3 in Billings, and in Billings it's U. S. Department of  
4 Labor, Box 3013, Billings, Montana. I can't give you his  
5 telephone number, the one I call is a federal number and  
6 you can get the operator in Billings.

7 VOICE: 256-7771, Extension 236.

8 JUDGE BENNETT: Any other questions?

9 REV. BECK: Mr. Jakewith, you have submitted a  
10 breakdown of the full-time and the --

11 MR. JAKEWITH: That is one that I put in the  
12 seasonal hires which accounts for half of our work force.

13 REV. BECK: How does the Forest Service go  
14 about recruiting relatively reasonable numbers of minority  
15 people? What methods do you use or how do you contact them?

16 MR. JAKEWITH: Our employment system is broken  
17 down through a service to the delegations, in Montana we  
18 have employment delegations held at the regional office  
19 for certain grade levels above GS-9 and GS-9 and below  
20 are primarily delegated directly to the Forest supervisor,  
21 we have 10 national forests located in the state of  
22 Montana and they conduct their own recruiting, of course  
23 with any assistance that is needed out of the regional  
24 office. Basically for the seasonal hires they open up  
25 their recruitment season generally in January or the first



1 part of February and circulate applications and take  
2 applications direct and direct hire. We also hire in  
3 certain seasonal categories through the Civil Service  
4 Commission, through a summer test which is given throughout  
5 the state at a number of locations primarily through the  
6 schools.

7 The permanent employees go directly through  
8 the Civil Service examination either in Helena or through  
9 one of the other boards asking for certain categories  
10 of employees depending on what we want to hire.

11 REV. BECK: There has been a decrease in the  
12 number of Indians employed in the last year, at least  
13 in the change from '71 to '72. Can you account for that  
14 in any way?

15 MR. JAKEWITH: Not a pattern, why they went  
16 down, a number of these were ranged everywhere from  
17 individuals that left, women that left to go with their  
18 husbands, individuals that just left with no word at all,  
19 just unable to conduct an exit interview which we try to  
20 conduct in all cases.

21 REV. BECK: Do you feel a responsibility to  
22 even increase more of your effort toward hiring minorities  
23 and women?

24 MR. JAKEWITH: Yes, I think that we'd like to  
25 have at least a representative percentage equal to what



1 the population is in our areas. We have more proximity  
2 through the seasonal hires and at the present time we  
3 have about 9% minority on the seasonal hires, about 20%  
4 women on the seasonal hires. In the permanent category  
5 35% of women, only about 2% minority.

6 Through our program of hiring in the temporary  
7 area, the seasonal area, we get a high percentage of  
8 people who come back year after year and then ultimately  
9 work in our permanent work force.

10 REV. BECK: You haven't found any unusual  
11 difficulties in making contact, or you don't find it  
12 impossible to increase the availability of minorities  
13 at all?

14 MR. JAKEWITH: No, we haven't had any difficulty  
15 getting numbers in terms of temporary hires. We presently  
16 have applications which we have to turn down because we  
17 don't have enough slots that we can put people on.  
18 Earlier in our program, we emphasized as we moved into  
19 hiring the American Indian and ran into occasional  
20 problems with turnover, individuals would come on,  
21 wouldn't stay but a few days and they'd leave. We tackled  
22 that problem by bringing on an individual, Ernie Bighorn  
23 joined us for a season and took a look at the picture and  
24 came up with a series of recommendations as to how we  
25 could get over this particular hurdle.



1           REV. BECK: In terms of a problem situation,  
2           having a minority counselor or someone working as a leader  
3           or employee counselor, is a very positive approach to  
4           helping your agency keep people employed?

5           MR. JAKEWITH: It's very helpful.

6           REV. BECK: Someone to help with the communicating?

7           MR. JAKEWITH: Yes, very helpful from the  
8           standpoint of increasing this communication, from the  
9           standpoint of communicating with the minority individual  
10          and him communicating with our supervisors.

11          REV. BECK: That is all.

12          MR. CATE: Does the Forest Service conduct any  
13          Indian cultural program for its employees?

14          MR. JAKEWITH: We conducted a number of sessions  
15          dealing with primarily attempting to increase the awareness  
16          of our employees to the cultural differences. We did  
17          this by working through primarily universities and some  
18          of the tribal councils and Black studies program at the  
19          universities to bring an individual also that could,  
20          we could term resource people, and through a number of  
21          these discussions we held seminars throughout our entire  
22          work force.

23          MR. SPANG: I notice in one of the data sheets  
24          that you presented, in 1971 you had 132 Indian employees,  
25          in 1972 you had decreased, reached a peak of 103, what sort



1 of factor would contribute to that?

2 MR. JAKEWITH: What statistics are you referring  
3 to?

4 MR. SPANG: 1971, you had in your temporary  
5 employment --

6 MR. JAKEWITH: Okay.

7 MR. SPANG: 132 Indian employees.

8 MR. JAKEWITH: Right.

9 MR. SPANG: In 1972 you had 103 or a decrease  
10 of 29.

11 MR. JAKEWITH: Yes, the major implication there  
12 is that we had about 10% total reduction in the number of  
13 temporary jobs throughout the region between 1971 and 1972  
14 so there was a subsequent reduction in all categories,  
15 and this was one category that had to take its share.

16 MR. SPANG: Mr. Jakewith, on the list there  
17 I also see a tremendous decrease in organized Indian  
18 firefighters, in 1970 we had 1.3 million, 1972 176,958  
19 which is fantastic decrease; what happened there?

20 MR. JAKEWITH: This is the money that was paid  
21 out to organized firefighting crews.

22 MR. SPANG: Why?

23 MR. JAKEWITH: The only rationale I can give  
24 for that is decrease in the fire activity, we had a very  
25 slow fire season throughout the country last year. The



1 year before we had some tremendous fires primarily in  
2 eastern Washington that fire crews were kept busy almost  
3 continually. It makes a marked difference, this is a  
4 variable that is difficult to control.

5 MR. SPANG: These figures are just for Region 1  
6 then?

7 MR. JAKEWITH: Yes, I don't have those figures  
8 you are speaking now in front of me, that would be strictly  
9 for Montana, that was the figure given to the Committee.

10 MR. SMITH: Mr. Erickson, would you state your  
11 name and title and so forth for the record?

12 MR. ERICKSON: Eric Erickson, External OEO  
13 Coordinator, Federal Highway Division, the office is in  
14 Helena.

15 MR. SMITH: Mr. Erickson, I think you have a  
16 statement concerning the affirmative action program for  
17 the Department of Transportation. Would you care to  
18 make a statement?

19 MR. ERICKSON: I do have a statement. I am glad  
20 that you are down there and I am up here instead of the  
21 other way around.

22 First of all I was asked to comment on an  
23 affirmative action plan without department and those  
24 related with or concerned with the federal highway  
25 administration. In our regional office we did have an



1 affirmative action plan which has been assigned to us,  
2 it is currently under revision right now and has been  
3 reviewed rather in our Washington office now for approval.

4 It requires extra effort in the area of  
5 discriminatory practices in professional and non-professional  
6 areas, our professional people within our own division  
7 office total force incidentally comprises 25 people right  
8 now, 18 professionals and 7 non-professionals and clerical.  
9 At the moment we have no minorities working in the office.  
10 We do have a disadvantaged person. We haven't had much  
11 luck with the minorities. We hire them, we train them,  
12 and someone else picks them up. We had a young lady who  
13 is pursuing a career as an airline stewardess who was with  
14 us. The BIA took one of our girls that would be training,  
15 she found a better job with them. My major concern,  
16 principal concern, is with the administration of the  
17 federal aid highway contracts, if any of you know where  
18 our next federal aid is coming from for highways, I wish  
19 you would let us know, before you ask me, I don't know either.

20 Our federal aid contracts, as indicated by Ton  
21 Sofftich earlier, do have a built-in affirmative action  
22 program, there are specific areas of as I say affirmative  
23 action in each contract, each contractor must develop an  
24 affirmative action policy which must be made known, posted,  
25 and advertised. Tony didn't mention it, there has been some



1 trouble in that particular area, in each case it was  
2 quickly corrected, each company must have a policy not  
3 only for those own personnel, they must indoctrinate  
4 supervisors and hiring people and they must make the  
5 policy known to the agencies outside that will furnish  
6 personnel, this being the union, employment agencies,  
7 and the minority community is supposed to be advised.  
8 Contractors must establish recruitment sources for  
9 minorities and they must also in addition to establishing  
10 these sources, establish a communication line with the  
11 minority sources for the utilization of that source. They  
12 have to review personnel action for discriminatory practices,  
13 they must undergo active programs of training and  
14 promotion pointed towards minorities, they are required  
15 to work with the unions to achieve greater minority roles,  
16 enrollment in the unions. They are required to seek out  
17 minority subcontractors and as in any bureaucratic empire  
18 they are required to keep an accurate record of all these  
19 things.

20 In the area of training, we have now a requirement  
21 from the federal highway administration that a goal is  
22 established each year for the highway department wherein  
23 they are to include in federal aid contracts a specific  
24 goal of a number of minorities to be trained during the  
25 year in skills. Last year the department had an assigned



1 goal of 86, they placed in their contracts and put in  
2 training 84 of those 86. Before the goal was sent out,  
3 the highway department had already established their own  
4 goal of 104, however, the decrease in federal aid I am  
5 afraid knocked that down to where we looked at about 50.  
6 Here is another reason we need that federal highway funds.

7 We have a program going now that we are  
8 particularly proud of, that is a supportive service  
9 training program, a training program, it encompasses  
10 a contract between the department of highways and UADC,  
11 a federally funded program wherein the minorities are  
12 hopefully trained and counseled to avoid many of the  
13 dropout problems we have. Once a trainee enters into an  
14 apprenticeship, the program is promising, then we are in  
15 the first year of extensive going on that program. So  
16 far we have reason to be enthused with it.

17 The final program that we are involved in as  
18 far as EEO is concerned is external opportunity program.  
19 In this program our contractors are asked to provide  
20 summer jobs for minority and disadvantaged youth. This  
21 year we have indications that the contractors and the  
22 State Highway Department have agreed to provide jobs for  
23 235 of these minority and disadvantaged youths.

24 MR. SMITH: Thank you, Mr. Erickson. There has  
25 been I think seminars and meetings and your office, in your



1 office with you and the highway people and the union and  
2 contractors, have they been successful in your thinking?

3 MR. ERICKSON: I would judge them as moderately  
4 successful, yes. A measure of that success I think is in  
5 the chagrin indicated by the contractors a year ago when  
6 we were required to cancel such a planned seminar. There  
7 was concern indicated by quite a number of contractors,  
8 officers, in not being able to come in and find out more  
9 of what was going on.

10 MR. SMITH: The training programs that you  
11 mentioned now are only stopped because of the lack of  
12 funds rather than lack of cooperation?

13 MR. ERICKSON: Well the training programs we  
14 have are not being stopped, it's the inclusion of future  
15 programs that, if we can't let contracts, we can't let  
16 the requirement for training programs with them.

17 MR. SMITH: Thank you very much. Any questions  
18 from the floor, from the members of the panel?

19 MR. CATE: Thank you gentlemen. Mrs. Greene,  
20 would you like to come forward and testify please.  
21 For the record Mr. Spang wishes to disqualify himself  
22 because he is an employee of the BIA.

23 MRS. PETERSON: For the record will you state  
24 your name and your present employment?

25 MRS. GREENE: Yes, Janet Greene, I am employed with



1 the Bureau of Indian Affairs and I am a realty specialist  
2 associated with the real property management, for those  
3 that are not familiar with this, it has to do with all  
4 trust lands whether it's individually owned or tribally  
5 owned, and I handle that phase of it that concerns land  
6 conveyances and rights of way.

7 MRS. PETERSON: Now I think perhaps it might be  
8 as well to talk a little about your job history, when did  
9 you start?

10 MRS. GREENE: All right. I started with the  
11 Bureau of Indian Affairs about September 1959. I transferred  
12 from the Norton Air Force Base in San Bernadino, California.  
13 I have been with the real property management since that  
14 date, with increases periodically. I started as a clerk  
15 G-5 and presently a GS-9. I have been a GS-9 from 1967  
16 to date. I do have competent civil service status and I  
17 have approximately 22 years of civil service and I am  
18 involved in an action of what I term is discrimination  
19 based on sex and race. This is still pending, I have not  
20 had a final decision as to favorable or unfavorable.  
21 The first hearing was held by the Bureau of Indian Affairs,  
22 that was in July, July 12, 1972. I received this, a  
23 decision in August 23, 1972, that this investigation upheld  
24 an election that I was protesting. On October 14, 1972,  
25 I requested a civil service hearing and it was held. Now



1 that hearing was transmitted to the Washington office  
2 of equal opportunity on November 17, 1972. To date I  
3 have not received anything. When I was asked to appear  
4 I thought my appearance would be helpful to any other  
5 female who may be involved in something similar.

6 MR. CATE: Mrs. Greene, may I interrupt a moment?  
7 I want you to be aware that if you do have a suit pending  
8 or if you do have an application pending on appeal that  
9 your testimony here today might jeopardize you in either  
10 of those lawsuits or in that appeal. Have you -- are you  
11 represented by legal counsel?

12 MRS. GREENE: Yes.

13 MR. CATE: Do you have an attorney?

14 MRS. GREENE: Yes.

15 MR. CATE: Have you talked to him about your  
16 testimony here today?

17 MRS. GREENE: No, I have not.

18 MR. CATE: You realize of course that this is  
19 being transcribed and that anything that you testify to  
20 today here may well be used against you in those suits  
21 by someone on the opposing side, do you understand that?

22 MRS. GREENE: I understood that this was not to  
23 have any effect one way or the other on the decision that  
24 should be forthcoming or anything else that transpired  
25 hereafter. Perhaps I was not instructed properly.



1 MR. CATE: From whom did you get that under-  
2 standing?

3 MRS. GREENE: From the Commission.

4 MR. MUSKRAT: From me.

5 MRS. GREENE: I'll be glad to appear here because  
6 I was, as I said, I have not received anything favorable  
7 or unfavorable and I just have to wait for that.

8 MR. MUSKRAT: Off the record please.

9 (Discussion off the record)

10 MR. CATE: Would you like to decline to testify?

11 MRS. GREENE: I don't want to go further if  
12 this could happen.

13 MR. CATE: I don't think you ought to take the  
14 chance of your testimony here jeopardizing your appeal  
15 whether it's civil service or later on a lawsuit, you are  
16 not being represented by counsel here and I think that is  
17 the best advice that we as a Commission can give you at  
18 this time. Your testimony would be helpful I am sure but  
19 I don't think it outweighs the jeopardy that may occur  
20 to your cause.

21 MRS. GREENE: As I said it would be probably  
22 helpful to minority groups, any other females, but I  
23 certainly do not want to proceed any further if that is  
24 the case.

25 MR. MUSKRAT: When I talked to you I did not see



1 anything wrong with it, if other members of the Committee  
2 do, then I would tend to agree with them if there is the  
3 slightest bit of doubt in anyone's mind about the thing  
4 that we are concerned with right now, that is your position  
5 in your case. After that is all over, and after it has  
6 been litigated, if it does go to Court and a subsequent  
7 hearing, perhaps we can hear from you, nobody on this  
8 Committee wants to do anything to jeopardize your position.

9 MR. CATE: I want you to know we are aware of  
10 your problem, the Committee is, and it is private and  
11 confidential and we do know of your problem and don't see  
12 any need of putting it in the record at this point. Thank  
13 you very much.

14 MRS. GREENE: I am glad we didn't proceed any  
15 further.

16 MR. CATE: Mr. McDonald, we could take your  
17 testimony if you would like to go ahead at this time.

18 MR. McDONALD: Fine.

19 MR. DILLON: Mr. McDonald, would you state your  
20 name and address for the record please?

21 MR. McDONALD: My name is Wyman McDonald. My  
22 address, home address, is 426 17th Street West, Billings,  
23 Montana. My business address is 208 N. 29th, Billings,  
24 Montana. My position is executive director for the  
25 Tri-State Tribes, Inc., Indian Community Project, Billings,



1 Montana. I am also the director for the Montana  
2 Inter-Tribal Policy Board.

3 MR. DILLON: Mr. McDonald, I am aware that you  
4 have a number of comments but for the benefit of everybody  
5 here, would you describe what the Tri-State Tribes is about?

6 MR. McDONALD: Yes, I could. Tri-State Tribes,  
7 Inc., operates from the office of economic opportunity,  
8 \$127,000 for the 12-month period, we provide economical  
9 assistance service to all reservations and community  
10 agencies in the three-state area of Montana, Idaho, and  
11 Wyoming. The chairman of each tribal council make up  
12 our board of directors. We feel we have taken a leadership  
13 role in attempting to promote institutional changes  
14 regarding Indian affairs and development of administrative  
15 programs for the benefit of Indian people.

16 In addition to that we have a tract published  
17 by OEO.

18 Some other programs and activities at the present  
19 time are that we are working with a Montana Power program  
20 providing general supervision by agreement with the  
21 Montana Inter-Tribal Policy Board.

22 MR. DILLON: Mr. McDonald, what is the nature  
23 of the comments you wish to explain here today. Do you  
24 have a statement?

25 MR. McDONALD: I do. I have a preferred statement



1 if --

2 MR. DILLON: Any statistical information?

3 MR. McDONALD: I do have a statistical analysis  
4 on the Bureau of Indian Affairs hiring practices in reference  
5 to the hiring of Indians, local Indians, in management  
6 positions, or the lack of hiring local Indians in management  
7 positions.

8 MR. CATE: Go ahead.

9 MR. McDONALD: The testimony I present here  
10 today will be presented on behalf of the board of directors  
11 of the Tri-Tribes, Inc., and the Montana Inter-Tribal  
12 Policy Board, with the official approval of these two  
13 all-Indian organizations.

14 My comments will be directed to discriminatory  
15 and racist employment practices and policies in the BIA  
16 and the Billings BIA jurisdictional service area. The  
17 statements I make here today must be understood in their  
18 complete historical perspective, the context of the Indian  
19 people, our past history and the present situation  
20 particularly in reference to the special trust relationship  
21 with the federal government through the Bureau of Indian  
22 Affairs. As you may know, the Bureau of Indian Affairs  
23 is the major federal instrumentality established by federal  
24 law to protect and preserve the Indian people and our  
25 purpose here today, I don't believe it is necessary to go



1 into an in-depth analysis of this special trust relationship.  
2 If there are any questions about this, I would be glad to  
3 attempt to answer them during a question and answer session,  
4 I am sure that I see some Bureau officials present who  
5 would also be able to answer them.

6 At the present time, based on the statistics  
7 that we have compiled and collected from the Bureau of  
8 Indian Affairs and our analysis of these statistics, we  
9 feel that the area director of the Bureau of Indian  
10 Affairs --

11 MR. MUSKRAT: May I interrupt a second? We  
12 would appreciate it if you would confine your testimony  
13 to the factual information that you have and any opinions  
14 that you might have to keep them to yourself and if you  
15 would please, let us draw our own conclusions from the  
16 facts that you present.

17 MR. McDONALD: Fine.

18 MR. MUSKRAT: Would you do that for us, please,  
19 sir?

20 MR. McDONALD: Okay. I would like to leave  
21 with the officials from the Commission, the State Board,  
22 our actual analysis of the BIA employment situation and  
23 I have these here.

24 MR. MUSKRAT: Mr. Cate, could we have these  
25 marked Exhibit H, I believe is out next exhibit. Mr.



1 McDonald, you have handed us a document with some figures  
2 on that, would you care to explain these figures to us  
3 and what they show.

4 MR. McDONALD: Yes, I would. The first sheet  
5 is a list of all positions, this was given to us by  
6 the Bureau of Indian Affairs, dated as of November 10,  
7 1972, for all positions in the Bureau of Indian Affairs  
8 and a breakdown by the Billings area office and by each  
9 agency office and a breakdown also by total employees and  
10 Indian employees and local Indian employees by grade level.

11 MR. MUSKRAT: Where do you find the predominance  
12 of Indian employees as to grade level?

13 MR. McDONALD: The second sheet of the analysis,  
14 that is an analysis of the first sheet and this is  
15 where we have primarily found that four BIA employees  
16 above grade GS-7 are generally considered beginning  
17 levels of management or the beginning levels of management  
18 positions, from these statistics of November 10, 1972,  
19 we found there are a total of 257 employees above grade 7.  
20 There are 62 Indian people, of Indian descent, there are 21  
21 Indians enrolled in this from reservations in the Billings  
22 area. The percent by breakdown is 9 Indians employed in  
23 these positions or 24% total Indians, the percent local  
24 Indians is 8%.

25 MR. MUSKRAT: So then Mr. McDonald, what you are



1 telling us is the Bureau employs a lot of Indians but  
2 they are all employed in the lower grade positions, not  
3 in the decision making positions, is that correct?

4 MR. McDONALD: Precisely.

5 MR. MUSKRAT: And that in relation to local  
6 Indians, the Bureau simply is not employing very many of  
7 them, is that correct?

8 MR. McDONALD: Well, one out of thirteen are  
9 in a position above grade GS-7.

10 MR. MUSKRAT: Local Indians, 1 out of 13 is  
11 all that raises above that grade?

12 MR. McDONALD: Right.

13 MR. MUSKRAT: Mr. McDonald, it is my understanding  
14 that the secretary of the Interior, last summer I believe,  
15 I think it was in July, wasn't it, came out with a directive  
16 to the effect that the Indian preference clause applies not  
17 only to initial hiring but also to promotions, and it's  
18 also my understanding that a federal suit in district  
19 federal court in Washington, D. C., recently held that  
20 the Indian preference portion of Title XXV applies not  
21 only to initial hires but also lateral transfers and it  
22 applies to rehires, etc., is that correct?

23 MR. McDONALD: Yes, it is.

24 MR. MUSKRAT: Well now if that is true, if  
25 any Indian people do have preference, then evidently they



1 are not exercising it?

2 MR. McDONALD: Very true, I'd think it should  
3 be pointed out also that in reference to the higher you  
4 go in the BIA hierarchy, for example, in the senior level  
5 positions, civil service positions exist from grade 13  
6 through 15, in other words the branch G positions, we  
7 have found 35 positions in the Billings area on the senior  
8 level, one local Indian employed, one Indian from any of  
9 the reservations out of 35.

10 MR. MUSKRAT: Does anyone else have any questions?

11 MR. DILLON: What has been the reaction locally  
12 toward this particular affirmative action that went into  
13 Title XXV?

14 MR. McDONALD: Would you repeat your question  
15 please?

16 MR. DILLON: How has the high administration  
17 responded to this stipulation of Indian preference on  
18 lateral transfers and this sort of thing?

19 MR. McDONALD: I would like to submit, I will  
20 have to find it, a press release that was dated -- don't  
21 tell me I have lost it -- I am sure I have a press release  
22 somewhere, I'd be glad to leave it with copies for the  
23 Commission after I finish my testimony, the local Billings  
24 Gazette is as good as anyone else, the principal  
25 administrator for the Bureau at that time was asked for his



1 comment by the Billings press and if I can recall correctly,  
2 his statements were that the Bureau had complied in  
3 reference to new hiring and some promotions but not in all  
4 cases. This is buttressed by the fact that the Bureau of  
5 Indian Affairs has called the -- in addition to the equal  
6 opportunity program, it says that relation establishes  
7 the Billings area affirmative action program for equal  
8 opportunity, employment opportunity, signed James Cannon,  
9 area director. This is dated June 30, 1967. Since I  
10 have obtained that release, it has been revised and that  
11 had been promised to be sent to me, the revision, but  
12 I have not seen it.

13 MR. MUSKRAT: Well, we'll see if we can obtain  
14 a copy of that from Mr. Cannon for you.

15 MR. McDONALD: All right. This is in reference  
16 to the inclusion of the "qualified Indian" and he might  
17 be qualified by applicable standards but have personal  
18 characteristics that would make it unwise to select him  
19 for employment, in other words qualified can be whatever  
20 they want it to be.

21 JUDGE BENNETT: In making this study and in  
22 arriving at these figures, did you make a collateral  
23 study to see what proportion of the Indian people were  
24 applying for jobs for which they were qualified, what  
25 about the qualifications, have you studied the qualifications



1 the requirements?

2 MR. McDONALD: It's been nearly impossible to  
3 do because there are never any positions open for Indians,  
4 the positions I think that I would also like to submit  
5 a letter from Mr. John DeMonte that was sent to, I have  
6 permission to submit this to the Commission also. That  
7 will explain what takes place in reference to available  
8 openings.

9 JUDGE BENNETT: What does take place?

10 MR. McDONALD: He was considered a qualified  
11 applicant and he was not considered for the position.

12 JUDGE BENNETT: Now who deemed him qualified?

13 MR. McDONALD: The personnel officer for the  
14 Bureau of Indian Affairs.

15 JUDGE BENNETT: Now he determined, did he,  
16 that he was qualified for the position?

17 MR. McDONALD: No, his qualifications were  
18 determined by civil service standards.

19 JUDGE BENNETT: And he was deemed qualified by  
20 the civil service?

21 MR. McDONALD: For the particular position.

22 JUDGE BENNETT: And he was turned down?

23 MR. McDONALD: Yes.

24 JUDGE BENNETT: He was turned down on what  
25 ground?



1 MR. McDONALD: Experience and education.

2 JUDGE BENNETT: Turned down because of experience  
3 and education?

4 MR. McDONALD: He was turned down because he  
5 was from this area.

6 JUDGE BENNETT: Now how do you determine that  
7 he was turned down because he was from this area?

8 MR. McDONALD: Just from what he told me.

9 JUDGE BENNETT: About the others who conceivably,  
10 there would be enough Indian people around to fill the  
11 positions so that 3/4 or so of the positions above GS-7  
12 would be held by Indians, but, well I ask you again, have  
13 you studied to see if those Indians who might qualify,  
14 could qualify under the regulations of the BIA?

15 MR. McDONALD: We are in the process of doing  
16 this at the present time. The only thing is in the past  
17 it has been futile to apply and most Indians from this  
18 state realize this.

19 JUDGE BENNETT: They were qualified for 62 of  
20 them?

21 MR. McDONALD: Well 21 not 62.

22 JUDGE BENNETT: From this area only 21 in this  
23 area of 62 Indians I take it out of the 257, they must  
24 have applied somewhere?

25 MR. McDONALD: Oh certainly.



1 JUDGE BENNETT: They got hired so you wouldn't  
2 insist that it's entirely futile for an Indian to apply?

3 MR. McDONALD: Well in all honesty I would say  
4 that it is this kind of a situation where the Northern  
5 Cheyenne people had requested of one of the gentlemen  
6 sitting on your Commission here today, Mr. Al Spang,  
7 Dr. Al Spang, who had been requested by the Tribal Council  
8 to serve as their administrator on the Northern Cheyenne  
9 Reservation. I think it took the Cheyennes' personal  
10 confrontation with the Commissioner of Indian Affairs and  
11 the Secretary of the Interior to effect this appointment,  
12 even though he was qualified in every respect by experience  
13 and by education.

14 JUDGE BENNETT: Was he turned down by the area  
15 director?

16 MR. McDONALD: Al could answer that better than  
17 I could.

18 JUDGE BENNETT: I am asking you, you are the  
19 witness, was he turned down?

20 MR. SPANG: I have disqualified myself from  
21 any participation in the panel for the witnesses --

22 MR. McDONALD: From my information from the  
23 tribal council, yes.

24 JUDGE BENNETT: On what grounds?

25 MR. McDONALD: On the grounds that has been



1 previously stated to me and also I think in a public  
2 statement that local Indians employed in their home  
3 reservations have a tendency to become involved in local  
4 political situations causing management problems.

5 JUDGE BENNETT: Where did you get this information?

6 MR. McDONALD: From Mr. Jim Cannon.

7 JUDGE BENNETT: Do they have a policy of not  
8 placing local Indians in his --

9 MR. McDONALD: No.

10 JUDGE BENNETT: In any local management decision-  
11 making policy, a position?

12 MR. DILLON: Mr. McDonald, is that federal  
13 policy, I mean that not placing Indians in their own  
14 reservation?

15 MR. McDONALD: I believes it's the exact opposite  
16 of the intent of the Bureau of Indian Affairs, the region  
17 of the Bureau of Indian Affairs and the reorganization act  
18 and the Indian preference section of the Indian  
19 Reorganization Act. I believe it is also the exact  
20 opposite of what we consider the thing that must be done  
21 to effect self-determination and determining our own destiny.

22 JUDGE BENNETT: Now to go back to your survey,  
23 we have the case of Mr. Spang here and that is one case  
24 and perhaps it is comprehended by the statistics. Do you  
25 have other cases where Indians who were qualified under



1 the regulations of the BIA who were turned down because  
2 they were Indians?

3 MR. McDONALD: Myself for one.

4 JUDGE BENNETT: You were turned down because you  
5 were Indian?

6 MR. McDONALD: Right.

7 JUDGE BENNETT: Were you turned down because  
8 you were in a local political situation?

9 MR. McDONALD: At the present time when I was  
10 informed I would not be considered for any kind of position  
11 in the Billings area, I was working in Washington, D.C.

12 JUDGE BENNETT: Because you were working in  
13 Washington, D.C.?

14 MR. McDONALD: I was turned down because I was  
15 a local Indian and because I am vocal, because I have  
16 opinions.

17 JUDGE BENNETT: You will concede there is a  
18 difference between turning you down because you are Indian  
19 and because you are an Indian in local affairs, that might  
20 conflict with your duty as an official? You will concede  
21 that there is a difference there?

22 MR. McDONALD: I think, Mr. Bennett, the  
23 difference is that the public trust, there is the concept  
24 of civil service, it relates to serving the public, all  
25 of the public. But the Indian Affairs, we have the trust



1 relationship, the Indian trust is many times more than  
2 not diametrically opposed to the public trust. In other  
3 words, there is economical and political conflict.

4 Therefore we feel that the civil servants who  
5 abuse his position as enforcing the public trust is not  
6 working in the interest of the Indian people and the  
7 Indian trust that is why we believe that the intent of  
8 the Congress was that the Indian preference should be  
9 that Indians would be working with Indians.

10 JUDGE BENNETT: I think that there is general  
11 agreement on that. I don't think that there are many  
12 people that would disagree with you. I will ask you  
13 again if you don't see a distinction between racism,  
14 not accepting an Indian for a job just because he's an  
15 Indian, and not accepting him for some other reason having  
16 to do with the operation of the plant?

17 MR. McDONALD: One study we have done, Mr.  
18 Bennett, relates to education. In 1962 there was  
19 approximately a hundred Indian students in the colleges  
20 throughout the state. In the past year there were more  
21 than 700 Indian students in the colleges in the state.  
22 Through the years certainly the graduation rate, the  
23 completion rate has not been nearly as high as the numbers  
24 that have entered, but there have been some recent graduates  
25 before and after who most certainly would like to go home.



1 Just as I feel, just as I think those Indians in this room  
2 would like to go home and work on behalf of their people.

3 JUDGE BENNETT: With the BIA?

4 MR. McDONALD: Yes sir.

5 JUDGE BENNETT: Well that is a general concept  
6 that might be right, they may want to go home and they  
7 may be qualified, but does your study reveal the relationship  
8 between not being hired at home after college education,  
9 and their being an Indian?

10 MR. McDONALD: Does this study reveal that?

11 JUDGE BENNETT: Yes.

12 MR. McDONALD: I think you can just in a sense  
13 compare it again, the proportionate number of Indians  
14 who are living, local Indians employed in management  
15 positions 30 years ago, 40 years ago, when the Indian  
16 Reorganization was originally passed in 1934, and bring  
17 it forward by decades, at any time you want to up to the  
18 present time. The increase in Indians in the Bureau of  
19 Indian Affairs management positions has not increased  
20 proportionately.

21 JUDGE BENNETT: Do you think in 1935 you have  
22 the same proportion that you have here? Have you studied  
23 that?

24 MR. McDONALD: We have not studied that, but  
25 we have information from the point of view of time when



1 the present area director assumed his duties as the  
2 principal administrative officer for the Bureau in 1962.

3 MR. DILLON: Mr. McDonald, this policy of not  
4 hiring an Indian on his own reservation, do you think it  
5 is wrong in the sense more or less removing him, is that  
6 what you are saying that it's a removal from his home  
7 so to speak?

8 MR. McDONALD: Yes, I do. I believe without a  
9 doubt through the years the Indian people have been forced  
10 to leave the reservation to find employment, for many  
11 reasons, not only the educated or the Indian who has  
12 obtained an education, been fortunate to get an education,  
13 for many other Indian people also have some aspirations  
14 to a better way of life. Consequently at the present time  
15 I think that the statistics also reveal that in the  
16 entire Billings BIA area there is not one college graduate  
17 that serves on any tribal council, in the entire Billings  
18 BIA area.

19 JUDGE BENNETT: Why do you say that?

20 MR. McDONALD: Because the Indians have been,  
21 many Indians have been forced to leave, particularly those  
22 with college education who are seeking gainful employment  
23 and a meaningful way of life.

24 JUDGE BENNETT: Forced to leave because of the  
25 economics on the reservation, right?



1 MR. McDONALD: Also because there was no way  
2 to be employed and the largest employers in the Indian  
3 country is the federal agencies and this is appropriate  
4 for Indian people to go to the Bureau of Indian Affairs.  
5 Therefore on many reservations they are the largest hirers.

6 MR. BIGHORN: I asked some questions prior, to  
7 your being here, another person about the hiring practice  
8 of the BIA. I might want to ask those same questions of  
9 you. Say for example, Fort Peck, Crow, or Fort Belknap,  
10 Wind River, say if I wanted to work for the Bureau of  
11 Indian Affairs, who would I go to, do those offices sent  
12 someone around to interview me and tell me if he can hire  
13 or not, who makes the decision on which Indian personnel  
14 are going to be hired?

15 MR. McDONALD: To the best of my knowledge in  
16 my personally working for the Bureau of Indian Affairs  
17 outside of Montana for approximately 6 or 7 years, the  
18 personnel policies for a vacancy were published and in most  
19 of the Bureau and Tribal offices in a particular area of  
20 the country.

21 MR. BIGHORN: If I wanted to look and went to  
22 Poplar and looked at the list that they had, who do I go  
23 to from there, do you have any idea?

24 MR. McDONALD: The bulletin will generally say  
25 where the opening is located and where the application



1 should be made. Now generally if it refers to a  
2 reservation position, the application is made to the  
3 manager or the second man in charge for the Bureau of  
4 Local Installations.

5 MR. BIGHORN: Who makes the decision that the  
6 person is hired or not? Is that done locally or done at  
7 area level, do you know?

8 MR. McDONALD: To the best of my knowledge, the  
9 application is reviewed locally with a recommendation  
10 and then sent to the Billings area personnel office.

11 MR. BIGHORN: If I was turned down for a position,  
12 what is my procedure in terms of saying, I am qualified for  
13 that position, who do I go to next, say, if I don't get  
14 the job, who do I apply to or what do I do?

15 MR. McDONALD: In the Billings area personnel  
16 offices, the top three candidates for the particular  
17 position are set out and then these three positions are  
18 sent back to the local BIA superintendent for his  
19 selection.

20 MR. BIGHORN: So you are saying the selection,  
21 the person who makes the selection is the local area  
22 superintendent?

23 MR. McDONALD: The actual selection, yes.

24 MR. BIGHORN: Okay. Another question I would  
25 like to ask is, that I am on the Fort Peck Reservation, if



1 I am living on Fort Peck and I applied for an education  
2 specialist job there at Fort Peck, the job is open, now  
3 my understanding is that maybe the chance that I will not  
4 be hired, because I am from that community, that is my  
5 understanding, did I understand that correctly, is that  
6 what you indicated?

7 MR. McDONALD: The actual mechanization is that  
8 the right word, what happens is that the list of  
9 applicants goes to the area office for determination,  
10 for evaluation of this, of what they can show on paper.

11 MR. BIGHORN: Say if I was one of the three and  
12 if I had all of the qualification and etc., Indian  
13 preference things, etc., they might give me an excuse  
14 and say, well, you are from this area, you might be  
15 politically involved, you don't get along with the community,  
16 therefore you are causing problems. On this policy, say  
17 now, if this is a policy, is that policy written down on  
18 a piece of paper somewhere or is that just something that  
19 someone has said or is saying, or is it policy of the local  
20 area or policy of the area office, is that in writing?

21 MR. McDONALD: It's in writing, in reference again  
22 to a press release from the Billings Gazette. It states,  
23 "Included in McDonald's argument was the complaint that not  
24 enough local Indians are employed on the reservation. This  
25 does present political problems, we have done it of course,



1 but not without a careful look. Our people have to stay  
2 out of politics." Also, again what I feel I personally  
3 believe what is to the best of my knowledge is the actual  
4 cause, I have not received anything in an affirmative  
5 action program, but qualified can be determined in any  
6 way and exactly as to how the bureau administrators wish  
7 it to be interpreted and not as per the person's actual  
8 academic or experience qualifications.

9 MR. BIGHORN: You are saying then that it is  
10 in writing someplace is what you said?

11 MR. McDONALD: We can only infer.

12 MR. BIGHORN: Only you don't know then?

13 MR. McDONALD: Only from our experience. I will  
14 again attempt to illustrate what takes place is that there  
15 was an opening as I understand it or position called the  
16 minerals officer in the Billings area office and that I  
17 think was a senior level position. All of the applicants'  
18 qualifications were studied and it was determined there  
19 was one qualified applicant, he happened to be an Indian  
20 from Montana. He was informed that the position would not  
21 be filled, that they were changing the qualification  
22 requirements so that it would require a graduate geologist,  
23 even though the previous release did not require that.

24 MR. MUSKRAT: Mr. Bighorn's question is the same  
25 that I was prepared to ask you, and it is simply if it is



1 policy of the Bureau of Indian Affairs not to hire an  
2 otherwise qualified Indian for a position simply because  
3 that is his own reservation. Is that policy in writing  
4 in the Bureau of Affairs manual?

5 MR. McDONALD: No, it is not.

6 MR. MUSKRAT: That answers my question.

7 MR. McDONALD: To the best of my knowledge, it  
8 is not.

9 MR. CATE: Did your group make a study of any  
10 other area office, and if you did, what were the results  
11 of that study?

12 MR. McDONALD: Yes, I don't have the material  
13 with me but I would like to submit it to the Commission  
14 at a later date as soon as I could get back to my office.

15 MR. CATE: I will leave the record open for that  
16 purpose. What I would like to know, does it show the  
17 same practice in other areas of a smaller percentage of  
18 the local Indians being hired locally?

19 MR. McDONALD: I don't have the actual figures,  
20 I don't have this information. We do have memorandum  
21 releases by the local area directors, for example, the  
22 area director on the Navajo Reservation, and also for  
23 the Muskogee area that when the recent court case, Freeman  
24 vs. Morton, in reference to reaffirming the Indian preference  
25 section of the IRA Act, the memo as we interpret it, the



1 BIA employment policy was to effect that court decision  
2 immediately. There was no conflict, no misunderstanding,  
3 it was something they had been doing all along anyway.  
4 I am certain that I or you or we could get the statistics  
5 from the various other reservations, the areas, the BIA  
6 areas, particularly Muskogee and particularly Navajo that  
7 would indicate that the employment of local Indians again  
8 is much higher than it is in the Billings area.

9 MR. CATE: I would like to have the record open  
10 for what information you would have and would appreciate  
11 receiving it.

12 JUDGE BENNETT: Mr. McDonald, I am in the  
13 judging business and I am not adverse to you at all, I  
14 am trying to find an honest answer to the statistics you  
15 have given me and in the judging business you always ask  
16 it adversely, to take the side of the other guy and see  
17 if you can see from his position. I'd like to say to  
18 you in relation to the example that you have just given,  
19 where they apparently -- and we'll take it for fact what  
20 you have just given us -- we have apparently posted the  
21 requirement for a mineral officer in the area office.  
22 Even after apparently somebody who wasn't qualified as  
23 a geologist, he had qualified under the old rules. If all  
24 that is true, I am sure that you realize the mineral  
25 interests of the Indians in the area that we are talking about.



1 the Billings area, is enormous and I would assume that the  
2 minerals officer would have something to do with the  
3 determination of whether or not lease offers were high  
4 enough and were properly made, whether or not the mineral  
5 interests of the Indians were properly disposed of, not  
6 on a single bid but perhaps for generations. Now taking  
7 the position of the thousands of Indians whose livelihood  
8 depends on the full exploitation of the mineral interests,  
9 taking their position, wouldn't you rather have a qualified  
10 geologist making those determinations whether he was Red  
11 or White in this particular situation?

12 MR. McDONALD: No.

13 JUDGE BENNETT: You wouldn't?

14 MR. McDONALD: I would not.

15 JUDGE BENNETT: I am trying -- that is your  
16 preference -- I am trying to making a point that perhaps  
17 some of the requirements and some of the qualifications  
18 they lay down might be necessary and they may necessarily  
19 from time to time exclude Indians.

20 MR. McDONALD: I am aware of that.

21 JUDGE BENNETT: In the interests of Indians  
22 certainly?

23 MR. McDONALD: Certainly.

24 JUDGE BENNETT: In your surveys, I would hope  
25 you will make further research in this area but I hope you



1 keep factors like that in mind.

2 MR. McDONALD: We are in the process of doing  
3 this also, Mr. Bennett, contacting Indian organizations all  
4 over the nation, who are natives of Montana and asking them  
5 this very question, would you be interested in the  
6 employment in the Bureau of Indian Affairs in the Billings  
7 area back home?

8 MR. MUSKRAT: May I say something here with Mr.  
9 McDonald's permission? Mr. McDonald, when you first  
10 started to testify, you spoke of the Bureau of Indian  
11 Affairs, and you prefaced your testimony with remarks,  
12 you would like to testify about the racist practice of  
13 the Bureau of Indian Affairs, with your permission, sir,  
14 if you feel that your testimony, the weight of your  
15 testimony will still stand if we strike the word racist  
16 and any reference to that, if you don't feel this will  
17 hurt your testimony, then I would like to see this stricken  
18 from the record.

19 MR. McDONALD: Fine with me, we could strike  
20 that from the record.

21 MR. CATE: Mr. McDonald, thank you very much  
22 for appearing and taking your time to come here to testify  
23 today, we appreciate your testimony. We will leave the  
24 record open for the submission of additional statistics  
25 if there are some relating to other areas.



1 MR. McDONALD: On behalf of the Policy Board and  
2 on behalf of the Board of Directors for Tri-State Tribes,  
3 I would like to thank the Commission.

4 MR. CATE: The next panel will be the Bureau of  
5 Indian Affairs panel.

6 MR. SMITH: Would you state your name and your  
7 title and your address for the record please?

8 MR. CANNON: My name is James Cannon, I am the  
9 area director for the Bureau in Billings, covering Montana  
10 and Wyoming.

11 MR. SMITH: Mr. Cannon, would you tell me how  
12 the Bureau, the BIA interprets the Indian preference clause?

13 MR. CANNON: Yes sir. The Bureau for many years  
14 interpreted this policy, this requirement as applying only  
15 to initial employment and to reduction in force. That  
16 meant that if a job was open and you were bringing in people  
17 applying for that job, that if there was a qualified Indian  
18 he would receive preference over any other candidate very  
19 much along the same lines as the veterans preference, the  
20 same kind of procedure.

21 In June of last year, the Secretary of the  
22 Interior, Mr. Morton, issued a new policy which extended  
23 Indian preference to apply also to promotion within the  
24 Bureau, it said that on all promotion actions that if an  
25 Indian was qualified, he would receive preference over all



1 other candidates regardless of their qualification. He  
2 had one loophole in it, he said that selection could be  
3 made, I don't, I think I have got the wording in here  
4 somewhere, if the qualifications of a non-Indian candidate  
5 or non-preference candidate, because that applies only to  
6 people of 1/4 or more Indian blood, that is a point worth  
7 noting, he said that the qualification of the non-preference  
8 candidate, if it was so superior or something like that,  
9 it would, you know, seriously damage the program, then  
10 the Commission was authorized to make an exception to that  
11 rule. Now, Mr. McDonald made reference to this press  
12 release, since I was the guy that talked to the papers,  
13 let me say what I did tell them. I said that the Secretary's  
14 policy was just an outline, but the Freeman case was  
15 decided in December, in Washington, it took away that  
16 leeway, it said that there would be no exceptions of any  
17 kind to this preference policy. It also said that the  
18 judge interpreted the preference policy as meaning that  
19 the Bureau would no longer be able to make lateral  
20 reassignments of the individuals. If there was a qualified  
21 Indian and he wanted the job, in other words, a man was in  
22 a Grade 7 job and could not be moved over to Crow, a non-  
23 Indian could not be moved over to Crow if there was an  
24 Indian candidate for the job in Crow. That had the effect,  
25 and the judge went on to say he realized this created an



1 administrative headache for the Bureau, he was sorry  
2 that was the Bureau's problem and not his. We then  
3 received from the Secretary's office a telegram which  
4 I think ought to be put in the record or I can read it,  
5 it's very short. "To the Area Director, Bureau of Indian  
6 Affairs, Billings. In regard to the Indian Preference  
7 Case of Freeman vs. Morton " -- this is dated January 17 --  
8 " in regard to the Indian preference case, the assistant  
9 secretary has advised us as follows, the solicitor's  
10 office currently has this decision under study to determine  
11 its effect on our existing Indian preference policy.  
12 Pending such a determination, the policy approved by the  
13 Secretary on June 22, 1972, and implementing procedure  
14 approved by me on October 30, 1972, remains unchanged.  
15 All personnel action in the Bureau of Indian Affairs  
16 should therefore continue to be effected under the  
17 present Indian preference policy." Subsequently the  
18 department did appeal the judge's decision and is attempting  
19 to, because they feel it's administratively unworkable and  
20 they disagree with his interpretation of the law.

21 My only point in bringing this up is that when  
22 the newspaper reporter asked me, in fact I gave him a copy  
23 of this telegram and pointed out that it wasn't my decision,  
24 I wasn't the one that was deciding whether or not to follow  
25 Freeman or not, it was a detrimental decision that we



1 couldn't operate under, the Secretary's policy of June '72  
2 rather than the Freeman case. Now whether that was the  
3 correct legal decision or not, I would like somebody else  
4 to say, but it was the legal decision made by the department.

5 MR. SMITH: Will you supply a copy of that? Now  
6 Indian preference, you are supposed to consider just as of  
7 this, since this new decision, lateral transfers and  
8 reassignments, are they to be preferenced to Indians and  
9 how far does that go?

10 MR. CANNON: What this means is that as long as  
11 we are not implementing the Freeman decision, the Secretary  
12 said we are free to continue to make lateral reassignments  
13 as long as no promotion was involved. If a person needed  
14 to be moved for some reason or for something, we are free  
15 to make that move. Now that may change some if the judge's  
16 decision becomes final, why that will be it.

17 MR. SMITH: Now, you are awaiting that decision?

18 MR. CANNON: Yes sir.

19 MR. SMITH: I see. What is the current situation  
20 in the Indian Bureau with the higher positions, how many  
21 Indians are holding the higher positions, say 11 to 13?

22 MR. CANNON: Well, I brought with me, Mr. Smith,  
23 an updated version as of March 31, 1973, of the same table,  
24 I think you were just given that, which I will hand over.  
25 This is pretty much on the same basis as the one you have,



1 I guess you could start anywhere. I am inclined to think  
2 in terms of grade 7 and above rather than above grade 7  
3 but it doesn't matter, you could do it any way you want to.  
4 I don't have this broken out in all of the different  
5 categories as of March 31. You will note that grade 7  
6 and above, 93 Indian people out of a total of 296 positions,  
7 about 32, 31 percent. Of those 93, 38 are local people,  
8 when I say local I am talking only about at the agencies,  
9 we did not and maybe we should have gotten a breakdown  
10 over Montana, of Montana Indians and Wyoming Indians in  
11 the area office itself, but I think the real issue here  
12 is Indian personnel working on their home reservation.  
13 So working in the area office wouldn't quite meet that  
14 category and we for that reason, we didn't try and show  
15 it there. I would like to add one other thing to correct  
16 the record. Several of you asked Mr. McDonald if this was  
17 a written policy, written down, and I have several letters  
18 here, I think these are all extra copies which I can put  
19 in the record. One letter is addressed to Congressman  
20 Shoup and is signed by Mr. John Crow who at that time was  
21 deputy commissioner. I have another letter signed by  
22 a former commissioner, Lewis R. Bruce, addressed to Senator  
23 Metcalf, and if I may, I will give these to the record,  
24 I would like to read the one paragraph because this is the  
25 policy statement from the Commissioner which is the same



1 policy I have been stating to the tribes. "While it may  
2 be desirable from the viewpoint of the local Indians in  
3 all the major number of positions at the Agency, the  
4 Indian preference policy distinguishes between the Indians  
5 and the non-Indians, it does not permit us, however, to  
6 grant employment preference to members of particular tribes  
7 in their local situation. In filling key jobs at agencies,  
8 it has always been the Bureau's policy to take a close look  
9 at the candidate's ability to perform effectively without  
10 becoming involved in local political situations with the  
11 tribe or the community. Questions arise concerning possible  
12 conflict of interest, nepotism, favoritism, and other  
13 factors which must be given consideration when we are  
14 selecting for key positions such as superintendent,  
15 administrative manager, field representatives, and similar  
16 assignments." They enclose a copy of a letter which I  
17 had written to Senator Metcalf on the same subject and in  
18 effect endorsed what I had said to Senator Metcalf, to  
19 Senator Mansfield I mean, on that same subject. I can  
20 put all those in the record but the point I am trying to  
21 make is that we have not said that we will not hire local  
22 people for key positions, what we have said is that we feel  
23 that before we do this we want to take a very close look  
24 at them in terms of their ability to operate in their local  
25 community. I have had requests for example from defeated



1 tribal candidates for tribal chairman who come in and say,  
2 look, I didn't get elected, how about hiring me at my  
3 home reservation so I can do a little more complaining?  
4 It is that kind of thing we have to, I feel, we have to  
5 avoid, our people have to keep out of tribal politics.

6 MR. SMITH: There are qualified personnel in  
7 the area that should not be mixed up in the political  
8 situation, capable, educated, they would have the ability,  
9 there must be some of them, yet there is none to speak  
10 of in the higher jobs separating the political --

11 MR. CANNON: There are some.

12 MR. SMITH: A few, relatively few.

13 MR. CANNON: I'd think that is true, there are  
14 relatively few local Indians, not Indians, but local Indians  
15 in these jobs. Quite frankly in many cases there are  
16 problems on it. The people that -- even people who are  
17 in those jobs today come in and have talked to me about  
18 some of the problems that they are confronted with, the  
19 pressures they are under.

20 MR. SMITH: No doubt there are problems and  
21 political pressures, I am not underestimating that, do  
22 you see any chance in the future when people from the  
23 local area, qualified, would fill these higher positions?

24 MR. CANNON: I think what most likely would  
25 happen in the future is that this is a rapidly increasing



1 thing, in Indian country, that the tribes themselves are  
2 moving into these operations that the Bureau previously  
3 ran, and this is my suggestion from the beginning, that if  
4 the tribe would assume responsibility for the programs,  
5 then the political picture changes because then the  
6 individual being hired by the tribe is in the same situation  
7 as an individual being hired in the local community by  
8 the city council or the county commissioners or some other  
9 group, and he has a political opportunity in tribal  
10 government, but this is the direction that the Bureau is  
11 emphasizing, the Bureau is talking about tribal operation  
12 of the tribal programs.

13 We are encouraging the tribes to assume operation  
14 of the programs that were previously managed by the Bureau  
15 staff so I am inclined to think that this is probably the  
16 thing that is going to happen more and more in the future.  
17 We have a number of tribes who are negotiating with us  
18 right now for contracts to actually control employment  
19 assistance functions, education programs. The Busby School  
20 was just taken over by the Northern Cheyenne Tribe.

21 MR. SMITH: I would like to ask Mr. Roy Buffalo  
22 a couple of questions and then we'll open it to the other  
23 panel members. How many Indians do you place as -- are  
24 you the equal employment officer?

25 MR. BUFFALO: No.



1 MR. SMITH: What do you do?

2 MR. BUFFALO: I am with the employment assistance  
3 program and our program is not primarily for employment.

4 MR. SMITH: How many do you place?

5 MR. BUFFALO: Well, those that require service  
6 from us, about 150 each year, that is the ones that choose  
7 to come under our program within the state.

8 MR. SMITH: The employers now that are asking  
9 for these Indians, do they have an affirmative action  
10 program filed with your office?

11 MR. BUFFALO: I have given the associated general  
12 contractors this information, in the last three or four  
13 years, I still get criticized by some of the people. They  
14 do not have this information available and all they have  
15 to do is call the agency employment assistance office and  
16 I can give it to them or call me at the area office and  
17 I can give it to him.

18 MR. SMITH: It is available in spite of the fact  
19 that many say it is not?

20 MR. BUFFALO: Yes.

21 MR. SMITH: Other than through you, is there any  
22 other way for them to get the information?

23 MR. BUFFALO: About equal employment?

24 MR. SMITH: Yes.

25 MR. BUFFALO: I would suggest you call the



1 Equal Employment Office at Billings or probably at the  
2 Agency. I don't do that at all.

3 MR. SMITH: You are not in that. Is there any  
4 effort on your part to upgrade the Indians in the BIA and  
5 other areas of employment?

6 MR. BUFFALO: By upgrade you mean by wage scale?

7 MR. SMITH: Training programs.

8 MR. BUFFALO: We are in a different category,  
9 they are involved in employing people with the Bureau,  
10 we are in the business of trying to get people jobs with  
11 industry, construction and so forth. Most of the employers  
12 we feel do have a wage scale but we are not in a position  
13 to try and see that it is upgraded. I do not like to see  
14 people get employed in a very low scale, especially when  
15 they just can't leave.

16 MR. SMITH: Do you think you will be able to  
17 upgrade more Indian jobs except for finding more manufacturing  
18 or what have you on the reservations themselves?

19 MR. BUFFALO: We have quite a large number of  
20 people now that are going through our vocational training  
21 program. This is a voluntary program, if they want to go  
22 on it, they can if they are from the reservation and  
23 they can go back to any type of training that they wish.  
24 If this in turn may be -- they can upgrade themselves.

25 MR. SMITH: Then if they are not too willing to



1 leave the reservation or its near surroundings, it's still  
2 tough finding a job?

3 MR. BUFFALO: Industries and jobs are picking  
4 up on reservations quite rapidly and I can see why some  
5 of the people do not want to leave the reservation. The  
6 construction wages on reservations are comparable or equal  
7 or better than the union scale.

8 JUDGE BENNETT: We have been asking employers  
9 all day here whether they had an affirmative action program  
10 and inquiring as to whether they are going to implement an  
11 affirmative action program. We asked three of them this  
12 morning if they had gone to the employment assistance branch  
13 of the BIA and none of them said they had. In fact I  
14 thought I saw in their faces the light of first recognition  
15 when I used the name. I will ask you what your affirmative  
16 action program is in going to the employers to make sure  
17 that they are aware of the availability of Indian labor  
18 and to make sure that when they consider hiring people  
19 that they will have in mind among others, the Employment  
20 Assistance Branch of the BIA. What kind of liason is  
21 set up with the employers around Montana?

22 MR. BUFFALO: In the larger cities where most  
23 of the employment is taking place, we have people working  
24 in those areas, we do not try to compete with the employment  
25 service for jobs as such. When they get a request from an



1 agency, people saying, I want to go to Great Falls for  
2 work, we try and contact some of the employers that are  
3 interested in working with us, to try to set up two,  
4 approximately two interviews. They are not always  
5 successful but that is what we usually do. We are not  
6 going around and knocking on doors, saying we have got  
7 a lot of people that we want to place, we can always  
8 produce the people when they ask for them.

9 MR. SMITH: What I was wondering, for those kinds  
10 of things, a broadcast program, not a particular broadcast  
11 but a general information program to employers to the  
12 effect that there are Indians that are unused and that  
13 there are unemployed Indians and that you need jobs and  
14 so on, contacting not on a particular job but just making  
15 them generally aware, all employers, that there is an  
16 Indian labor pool that needs attention, have you done any  
17 of that?

18 MR. BUFFALO: No, we haven't.

19 MR. SMITH: A little promotional work, I wonder  
20 if that wouldn't help.

21 MR. BUFFALO: A firm from Pascagoula, Mississippi,  
22 came through here, they proposed that type of approach. I  
23 do not think that it was overly successful, whether they  
24 did it or not, they didn't get too many people in Pascagoula.

25 MR. SMITH: They wanted them to go to Pascagoula,



1 Mississippi?

2 MR. BUFFALO: Yes.

3 MR. SMITH: I bet they weren't ready for that.  
4 It seems to me that the thing ought to be working  
5 reciprocally, I am sure the employers who are obliged, as  
6 I understand it, to have an affirmative action program,  
7 they should be coming to you?

8 MR. BUFFALO: They are starting to.

9 MR. SMITH: I would think it might accelerate  
10 a little if you went to them.

11 MR. BUFFALO: We are getting a lot of window  
12 dressing in EEO, getting a lot of letters where the  
13 employer will not differentiate, that is the last we hear  
14 of it. We have also seen where they have wrote to the  
15 agency people on the reservation and given them the same  
16 thing and I have talked to some of the people before I  
17 came here and they said they have got a stack of them that  
18 high, that is the last they hear of them. People have  
19 quit corresponding to them as such in that manner, they  
20 say give us a job offer, we'll look for a man.

21 MR. CATE: Do you send people out to these  
22 employers?

23 MR. BUFFALO: We not only send them out, we  
24 give them financial assistance until their first paycheck.

25 MR. CATE: Within the last year, let's take 1972,



1 how many people did you send out?

2 MR. BUFFALO: 150, this is, they have received  
3 financial service from us.

4 MR. CATE: I am looking at a comparison, Mr.  
5 Cannon, with the BIA Billings area office minority  
6 employment by GS level for the years '69, '70, '71 and '72.  
7 According to this graph there were no Indians in GS-15,  
8 1969, '70, '71, '72. There were 2 Indians in GS-14 class  
9 in 1969, '70, there were 3 in 1971, 3 in 1972. In the  
10 GS-13 class, 6 Indians in 1969, 6 in 1970, 6 in 1971,  
11 and 5 in 1972. In the GS-12 category, 5 in 1969, 8 in  
12 1970, 7 in 1971, and 6 in 1972.

13 In these higher grade levels, why has there  
14 been a decrease in the number of Indians holding those  
15 high level positions if the policy is that you should  
16 put them into these positions? How do you explain that?

17 MR. CANNON: Well, it's a little hard to get  
18 into a generalization on that without getting down to a  
19 lot of specific cases. We are talking about very few  
20 jobs here. I know of two superintendents jobs where the  
21 tribal council demanded that they were given a choice, a  
22 list of several names including Indian names that they  
23 could consider, and they not only recommended a non-Indian  
24 but they went to Washington and demanded that he be put in  
25 the job. So, you know that is a couple of the jobs that



1 I think in both those cases -- I am sorry -- one of those  
2 cases the previous superintendent had been an Indian so  
3 this would reduce it.

4 We have three Indian superintendents at this  
5 point, one assistant area director who is Indian, that  
6 is the only one we have right now.

7 MR. CATE: Well, take the same group of figures,  
8 1969 you had 135 American Indian males employed and three  
9 years later in 1972 there is only 139, an increase of 4.  
10 Why hasn't there been a greater increase in the employment  
11 of Indians in these GS capacities in the area office in  
12 Billings?

13 MR. CANNON: Now your figures are in the area  
14 office only or for the whole area?

15 MR. CATE: This is your Billings area office  
16 as I understand it. 139 -- that must be areawide.

17 MR. CANNON: This is areawide, not just in  
18 the Billings office.

19 MR. CATE: Well it seems to me, Mr. Cannon,  
20 I want you to understand that I don't consider you a  
21 racist or any such thing as that nature, I consider you  
22 to be a capable and dedicated public servant, but I think  
23 we need an explanation of why there has been only four  
24 more Indians hired in GS positions over a period of four  
25 years.



1 MR. CANNON: Well I suppose the best  
2 explanation I can give, Mr. Cate, is that we have been in  
3 a period of reduction, primarily in our operation. We  
4 have had very very few new hires of anybody, we have had  
5 some retirements, practically none of those positions have  
6 been filled. We have been in a situation where we have  
7 become a shrinking staff primarily and so whether or not  
8 somebody retired, somebody else was moved over to that  
9 job, I don't know, maybe I can get some kind of figures  
10 on the total new hires, but on new hires the Indians  
11 preference policy has been applied all along. It's  
12 only been the promotion part of it that became effective  
13 in 1972 so on all new people coming in, the Indian  
14 preference thing did apply and was rigidly enforced.

15 I guess there are two explanations for it. One  
16 is that very very few new hires, just primarily we're  
17 in a reducing situation and some of the jobs, the technical  
18 jobs would be jobs where no Indians would apply. If a  
19 qualified Indian applied and could do the job, he would be  
20 hired.

21 MRS. PETERSON: Mr. Cannon, I want to go back  
22 to a previous question, I want to take a leaf out of  
23 Judge Bennett's book and ask you to put yourself on the  
24 other side of the fence for a minute. You have said that  
25 you hesitate to appoint people from the reservation in higher



1 grade jobs. You have also said that you discourage  
2 participation in tribal politics by employees, particularly  
3 in the higher grade jobs. Looking at it from the point of  
4 view of the Indian tribe, couldn't the Indian people feel  
5 that you are depriving them of some of their most qualified  
6 leadership on their own reservation when you do this?

7 MR. CANNON: I think so, I think I certainly  
8 understand the viewpoint of the individual who has a  
9 real push to get into his home situation. In many cases  
10 I think their motives are entirely okay, I mean they have  
11 no intention of becoming involved in the political things  
12 and he honestly feels that he can avoid it. Sometimes  
13 they have come back later and said, I tried, but you know,  
14 I just couldn't stay out of it, getting involved. I think  
15 there are people who feel that all they want to do is  
16 get a chance to go into this. From the tribal standpoint  
17 I think the tribe has a very ready option available to them  
18 and that is if they can either take over our program or  
19 the tribe today, most of the tribes, unlike 5 or 6 or 7 years  
20 ago, and Mr. Cate this may be part of the answer to your  
21 question, tribes in the last few years I'd say since about  
22 1963, have built up a large administrative group that they  
23 never had before. Most tribes before the 60's, about all  
24 they had was the tribal council and maybe one secretary.  
25 Today with EEO programs and EEA and EDA programs and many



1 other agencies, the tribes have a fairly large  
2 administrative staff and they have a lot of their own  
3 people in those jobs and they also have a lot of other  
4 people. They have not always hired their own people when  
5 the jobs were under their administrative control. I  
6 think this is another part of the picture.

7 MR. MUSKRAT: Mr. Cannon, I don't want to harp  
8 on this, I don't want to take any position either way,  
9 As I see both your argument -- and I see both Mr. McDonald's  
10 arguments, you both have very difficult decisions to make.  
11 I am a federal employee, I have to follow a set of  
12 regulations and I have a policy and I have to follow that.  
13 Now surely you are not trying to tell this Committee that  
14 the deputy commissioner can write a letter and set policy  
15 that way, are you?

16 MR. CANNON: I consider that a policy statement,  
17 yes sir.

18 MR. MUSKRAT: And a policy statement you are  
19 bound by does not go into the administrative manual or  
20 anything, is that correct?

21 MR. CANNON: No, it does not, it's not in any  
22 personnel manual that I am aware of.

23 MR. MUSKRAT: We are both federal employees,  
24 I know precisely what I can do or not do as far as political  
25 activity.



1 MR. CANNON: Yes.

2 MR. MUSKRAT: You are the same?

3 MR. CANNON: Yes.

4 MR. MUSKRAT: Would you kindly furnish us, this  
5 Committee some kind of policy statement and guideline  
6 whereby we can go back to the Indian people and if you  
7 are from a reservation and you want to apply for a job,  
8 this is what you can do politically, this is what you  
9 cannot do politically, something that will be in the  
10 manual and everything can be read and understood rather  
11 than some kind of unwritten policy and writing to  
12 representatives and senators?

13 MR. CANNON: Well, there is a statement in  
14 the Bureau manual that I don't have it with me, I can  
15 certainly get it. It is that an individual on his home  
16 reservation has every right to participate in tribal  
17 policy, take instruction, for example, the general council,  
18 the federal employees who are on that reservation have  
19 every right to participate in the general council, they  
20 vote in the tribal election, they can participate like  
21 anybody else.

22 The point is this presents no great problem for  
23 the person who is not in what is considered a key job, but  
24 when a person is in a key job then to the extent that he  
25 becomes involved, there is no prevention of this except that



1 he does create enormous problems for the Bureau and for  
2 his reservation and everything else.

3 MR. MUSKRAT: I hope that you can understand  
4 my ignorance here. I am sure you know what is involved  
5 means one thing to me and something else to Mr. Buffalo.  
6 If you can furnish this Committee with some kind of  
7 administrative manual that you have to go on -- they are  
8 too involved.

9 MR. CANNON: The only thing I have is the  
10 statement, it simply says that for key positions the  
11 Bureau will take a close look at the applicants to determine  
12 whether it would be possible for the applicant to perform  
13 his function without getting involved in this situation.

14 MR. MUSKRAT: Your basic discussion then relies  
15 on these letters that you have furnished us earlier?

16 MR. CANNON: Yes sir, and there have been other  
17 letters and decisions going way back as the letters said,  
18 it has always been policy, I just furnished these to  
19 illustrate that is not my policy, something that I have  
20 developed but rather something that represents a position  
21 the Bureau has always taken.

22 MR. MUSKRAT: One final question, Mr. Cannon,  
23 we have come across several companies which have contracts  
24 with Indian tribes to cut timber or do their business with  
25 the Indian tribes. Most of these contracts have, if not



1 all, they have what is commonly known as an Indian preference  
2 clause which states that preference shall be given to  
3 hiring Indians. Could you tell this Committee what your  
4 agency is doing to enforce these contracts?

5 MR. CANNON: Yes sir. We checked periodically,  
6 in some cases even monthly, with the companies to determine  
7 the number of Indian employees that they have hired. In  
8 some cases we have helped them recruit employees. This  
9 became particularly urgent in the situation where the  
10 mill or the operation is in an area which is almost entirely  
11 an Indian community. We have a system of forestry people  
12 checking with the companies to determine how they are  
13 doing on it. Obviously if any complaints are received,  
14 these are looked into, any indication of them not complying  
15 with it. We have a more affirmative action than that,  
16 not just a matter of sitting back and seeing whether  
17 anybody complains.

18 MR. MUSKRAT: The complaint would be issued to  
19 you and you could terminate the contract as a result of  
20 this complaint, is that correct?

21 MR. CANNON: Yes sir, if the company was not  
22 following the terms of the contract.

23 MR. CATE: Mr. Cannon and Mr. Buffalo, I want  
24 to thank you for coming and testifying before our committee.  
25 You gave us half an hour more than you were required to,



1 and we appreciate it. The areas inquired into are very  
2 important to our people and to the Indian people. We  
3 appreciate your coming here. The Committee will adjourn  
4 until 6:30.

5 (Supper Recess Taken)  
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