

Whiteclay Public Health Emergency Task  
Force  
LB407 (2017)

PRELIMINARY REPORT TO THE  
LEGISLATURE

December 15, 2017

**Whiteclay Public Health Emergency Task Force Members:**

Senator Tom Brewer, District 43, Co-Chair  
Senator Patty Pansing Brooks, District 28, Co-Chair  
Senator Brett Lindstrom, District 18  
Senator Mark Kolterman, District 24  
Senator Tony Vargas, District 7

**Ex-Officio Members:**

Judi gaiashkibos, Executive Director,  
Nebraska Commission on Indian Affairs

Dr. Fernando Wilson, Acting Director for Health Policy,  
University of Nebraska Medical Center

Kim Engel, Director,  
Panhandle Public Health District

## BACKGROUND

On April 24, 2017, the Nebraska Legislature passed LB407 (Pansing Brooks), creating the Whiteclay Public Health Emergency Task Force. Governor Pete Ricketts signed LB407 into law on April 27, 2017. LB407 went into effect on August 23, 2017.

The Task Force was created to examine the public health implications of alcohol sales in Whiteclay, Nebraska, on the Whiteclay community and surrounding areas, including the neighboring Pine Ridge Reservation across Nebraska's northern border. The Legislature created the Task Force in the midst of legal questions over the existence of four liquor stores in Whiteclay that had long been the source of controversy. These liquor stores sold 3.5 million cans of high-alcohol content malt liquor annually.<sup>1</sup> This number of alcohol sales was voluminous in light of the fact that Whiteclay is a census area of 11 people that has no local governing body, no local ordinances, no public safety personnel, decaying and unsafe buildings, no police or fire protection and no wireless broadband. The intent of the Task Force, which started its work prior to the closing of the four liquor stores, was to work on the public health emergency regardless of what happened with the closure of the liquor stores, understanding that the effects of the public health crisis would continue whether the stores remained open, or as ultimately happened, closed.

While the Legislature was advancing LB407 and moving it toward final passage, the Nebraska Liquor Control Commission voted to deny licenses to the four liquor establishments in Whiteclay. This denial of licenses came after Sheridan County Commissioners acknowledged a lack of law enforcement during an interim study initiated by Senator Pansing Brooks (LR567), which focused on the lack of sufficient law enforcement.<sup>2</sup> The revelation of lack of law enforcement triggered the Liquor Control

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<sup>1</sup> Nebraska Liquor Control Commission, [Whiteclay Sales Chart](#)

<sup>2</sup> Jack Anderson testimony, 10/11/16, page 74. See also "Lawmakers Investigating More Need for Police in Whiteclay," 10/11/2016, quoting Sheridan County Commissioner James Krotz

Commission to order the stores to reapply for liquor licenses so that the Commission could examine whether there was sufficient law enforcement in the area to support the licenses, as mandated under the Nebraska Liquor Control Act.<sup>3</sup>

A few days *before* the Nebraska Legislature passed LB407 on final reading, the Liquor Control Commission denied the liquor store licenses, based in large part due to the testimony by a Sheridan County Commissioner that law enforcement was insufficient at Whiteclay. Days *after* passage of LB407, District Court Judge Andrew Jacobsen voided the Liquor Control Commission decision. Immediately thereafter, Attorney General Doug Peterson put the lower court's decision on hold during appeal, resulting in immediate closure of the stores. The Nebraska Supreme Court took up the case and on September 29, 2017, ruled that notice to all parties had not been properly served on appeal by counsel for the beer stores and the stores must remain closed. This decision to close the stores based on lack of law enforcement substantiated the plan for the Whiteclay Public Health Emergency Task Force to focus on what it could do to improve the public health and economic landscape of a new Whiteclay.

### **THE HEALTH CRISIS**

Nebraska's actions and inactions in Whiteclay have had devastating consequences for the people on the Pine Ridge Reservation, which linger to this day. While alcohol sales on the Reservation are illegal, more than 1 in four babies born there suffer from Fetal Alcohol Syndrome, with debilitating physical and mental disabilities that are irreversible.<sup>4</sup>

The alcoholism rate is as high as 80%, infant mortality is 3 times the national average and teen suicide is more than 4 times the national average, according to the American Indian Humanitarian Foundation.<sup>5</sup> Nationwide, there are only 0.2 to 1.5

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<sup>3</sup> Nebraska Revised State 53-132 <https://nebraskalegislature.gov/laws/statutes.php?statute=53-132>

<sup>4</sup> Re-Member [data](#)

<sup>5</sup> Ibid

infants born with FASD for every 1,000 live births, according to the Center for Disease Control.<sup>6</sup> Using the one in four data, that means it's **250** for every 1,000 live births on the Pine Ridge.

### **TASK FORCE APPROACH**

Although LB407 didn't officially go into effect until August 23, 2017, Task Force members were selected and they began working prior to that time. The group held its first meeting on July 20, 2017. Another meeting was held September 7, 2017. During these meetings, members decided Senators Brewer and Pansing Brooks would co-chair the Task Force. Members also decided to divide their work into three main areas of focus: economic development, health and the establishment of a Memorial for the area. The idea of a Memorial came about from Frank LaMere, Former Oglala Sioux Tribe President Bryan Brewer and others who wanted to ensure that no one forget the decades of devastation caused by alcohol sales in Whiteclay. The Task Force decided to assign members of the Committee to primary areas of focus. Senators Vargas and Lindstrom focus primarily on economic development. Senator Kolterman, Dr. Fernando Wilson (University of Nebraska Medical Center) and Kim Engel (Panhandle Public Health District) focus on health, including treatment and detox issues. Senator Brewer leads efforts to establish a Memorial and Senator Pansing Brooks and Director gaiashkibos are involved in many aspects of the work.

The Task Force has and will consult with various organizations in the course of its work, including but not limited to, the Nebraska Tourism Commission, Panhandle Prevention Coalition, St. Monica's Behavioral Health Services for Women, the University of Nebraska, CHI Health, Panhandle Area Development District and others.

In order to help identify goals moving forward, the Task Force decided to hold a Whiteclay Summit, which took place September 29-30, 2017 in Whiteclay, Nebraska. The objective of the Summit was to bring in interested parties, including Sheridan

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<sup>6</sup> Center for Disease Control [statistics](#)

County officials, members of the Oglala Lakota Tribe, state officials and nonprofits to identify long-term objectives for Whiteclay. The following is a synopsis of the Whiteclay Summit and the long-term objectives for the area.

### **WHITECLAY HEALTH AND ECONOMIC DEVELOPMENT SUMMIT**

The purpose of the Summit was to:

1. Encourage participation and obtain input from academic and medical experts, including, but not limited to, the University of Nebraska Medical Center.
2. Encourage and obtain input from nonprofit organizations, faith-based institutions and city, county, and tribal government officials to evaluate and develop strategies and solutions to help victims escape alcoholism.
3. Study, evaluate, and report on the status and effectiveness of policies, procedures and programs implemented by other states directed toward Native American populations as they relate to preventing and combating alcoholism.
4. Evaluate the adequacy of interagency data sharing and policy coordination and recommend changes as necessary.
5. Examine sources of federal, state and private funds that may be available for prevention, detoxification, treatment, rehabilitation and economic development.
6. Examine ways to decrease the incidence of alcohol-related health problems through prevention programs and increased treatment, access to detoxification services and economic growth in Whiteclay, Nebraska, and the surrounding areas.

Participants at the Summit included representatives from the Oglala Lakota Nation Nebraska State Senators, Legal Aid of Nebraska, Lakota Hope Ministries, Grow Nebraska, nonprofit service providers and advocates, the Panhandle Area Development District, Nebraska Extension, the University of Nebraska Medical Center, Panhandle

Public Health, the Nebraska Indian Commission, Sheridan County elected officials and others. Discussions surrounded economic development and health care and opportunities for Sheridan County which could be mutually beneficial for members of the Oglala Lakota Nation who so choose to participate in Nebraska. At the conclusion of the Summit, a series of long-term and short-term objectives were identified to promote the healing of a population and community that has been taken advantage of by the long-term predatory sale of alcohol.

### **MAKERSPACE**

Jonathan Ruybalid, an attorney and entrepreneur, presented information about the Makerspace concept, which would be modeled off of the University of Nebraska-Lincoln's Innovation Campus. This concept would provide a medium for the Lakota people to be able to use their skills and abilities to produce traditional goods with the equipment and tools provided in the facility. In conjunction with providing an industrial area for producing goods, the Makerspace would also provide a platform to market these goods in a modern economy. An online store would be created so that producers can sell their unique products to a larger population. This project would be funded through private donations and grant dollars. Hospitality development initiatives were also identified as long-term objectives by the Summit. Additionally, sit down restaurants and gas stations were identified as potential projects. The idea was to develop places for people to receive services, while creating a sense of community for the area.

### **LONG-TERM OBJECTIVES**

During the Summit, Panhandle Public Health facilitated a brainstorming session, whereby Summit participants identified long-term goals for the area. Ideas include initiatives related to skills training and development, youth and community, parks, recovery and wellness and hospitality. The chart below outlines the broad ideas.

## What do we want to see in place in 3-5 years to move forward in healing and build an economically vibrant and healthy community?

Skills Training and Employment	Youth and Community	Parks	Recovery and Wellness	Hospitality
<ul style="list-style-type: none"> <li>• Job training/skills enhancement</li> <li>• Tech training</li> <li>• Entrepreneurial training – web-based and local</li> <li>• Maker Space</li> <li>• Industrial zone for Native-made products</li> </ul>	<ul style="list-style-type: none"> <li>• YMCA</li> <li>• Youth sports – traditional games: lacrosse, horses, soccer, archery, skating rink</li> <li>• Safe space: Community Youth Center - coffee shop, ice cream, aviary</li> <li>• High quality daycare services</li> <li>• Good preschools</li> </ul>	<ul style="list-style-type: none"> <li>• Park – Cowboy Bike Trail</li> <li>• Community gardens &amp; green houses</li> <li>• Develop food forests</li> <li>• Annual Sobriety Pow Wow</li> <li>• Historical Museum of Whiteclay</li> <li>• Interactive Memorial to NEVER FORGET</li> <li>• Industrial Zone for Native-made products</li> <li>• Tourist destination Tipi shops</li> </ul>	<ul style="list-style-type: none"> <li>• Recovery/Detox Center</li> <li>• Residential Detox Rehab Center</li> <li>• Rehab, counseling, mentoring</li> <li>• Sustainable Residential Life Center</li> <li>• Clinic – expanding healthcare &amp; a place for the Lakota Nursing School</li> </ul>	<ul style="list-style-type: none"> <li>• Nice gas station</li> <li>• Sit-down restaurant</li> <li>• Movie theater</li> <li>• Hotel/lodging</li> <li>• Affordable housing</li> <li>• Proper Infrastructure: water, waste, EMS, police, fire</li> </ul>

## **SPECIFIC OBJECTIVES**

The Task Force has identified specific objectives that are in line with the identified long-term objectives. These are areas the Task Force hopes to move forward to address in the near future.

### **1. Cellular Tower**

One of the immediate objectives, which has been part of the multi-faceted approach identified by Senator Pansing Brooks,<sup>7</sup> would be to construct a new generation, 4G permanent tower that provides 4G voice and broadband to facilities sponsored by Viaero, in or near, Whiteclay. Viaero Wireless placed a temporary tower near Whiteclay in 2016 with their own funds, but that tower was later destroyed in a wind storm after recent vandalism and sabotage. The placement of a permanent tower will greatly enhance public safety in the region, help facilitate distance learning and give individuals access to telehealth services, among other things. The Public Service Commission monitors and manages the Nebraska Universal Service Fund and distributes the fund to telecommunications projects that are located in high cost and rural areas, which would include Whiteclay. Additionally, The Public Service Commission allows applicants to apply for funding to build towers and provides related infrastructure in such areas around the state. A permanent tower is needed as Viaero Wireless is

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<sup>7</sup> Senator Patty Pansing Brooks, multi-faceted approach referenced in Omaha World Herald article: [“Kelly: From Documentaries to the Capitol to UNMC, Focus Sharpens on Alcohol Problems in Whiteclay,”](#) June 26, 2016:

- 1) Establishment of a Nebraska State Patrol substation and/or enhanced patrol hours in Whiteclay to enforce laws.
- 2) Condemnation and removal of abandoned buildings where crime and trafficking occur.
- 3) Creation of a drug and alcohol detox and treatment center combined with a job training program.
- 4) Expansion of Economic Development opportunities in Whiteclay and Sheridan County.
- 5) Establishment of wireless broadband for enhanced public safety, telehealth and distance learning opportunities.



evaluating available funding sources, including the Universal Service Fund, to construct a permanent tower in the Whiteclay area.

## 2. Treatment Facility

The Task Force will work with the Oglala Lakota Nation, local officials, nonprofits and others to consider locating a treatment and detox center in the Whiteclay vicinity. One possible idea is a treatment center being located somewhere on certain tribal land that crosses the South Dakota border and sits to the west of Whiteclay, within the boundaries of the State of Nebraska.

## 3. Memorial

The Task Force will also continue to work toward construction of a Whiteclay Memorial. The purpose of the Memorial will be to ensure that future generations never forget the suffering perpetrated on the Oglala Lakota people at Whiteclay. Local native artists will be involved in the creation of this Memorial.

## **CONCLUSION**

In 2018, the Whiteclay Public Health Emergency Task Force will focus on the following:

1. Attempting to secure land upon which a permanent cell tower in the Whiteclay area might be placed.
2. Identifying a location for a possible treatment and detox center and researching funding options for such a facility.
3. Facilitating the establishment of training resources to the area, including Makerspace and other economically-based initiatives.
4. Securing the design for a Whiteclay Memorial, determining its location and investigating potential funding streams for such a Memorial.
5. Continuing to work with natives and local Nebraska officials to spur economic development in the region to improve the overall economic outlook for

Sheridan County and the Pine Ridge Reservation and to consider opportunities for those effected by the Whiteclay Public Health Emergency to empower themselves and improve their lives.

With these goals identified, the Whiteclay Public Health Emergency has laid the foundation for its work in 2018-2019 and hopes for a great deal of progress by the next preliminary report in 2018. The Whiteclay Task Force will continue through 2018 until its expiration on December 31, 2019.

### **ADDENDUM**

*Members of the Whiteclay Task Force were honored to be greeted in prayer and song by more than 20 of our Oglala Lakota brothers and sisters who came to the Summit on horseback and offered gratitude, forgiveness and hope for our future together.*

