

**Testimony Before the House Subcommittee on Interior, Environment and Related Agencies**  
**Fiscal Year 2014 BIA, BLM and IHS Budgets**  
**Presented by Dennis Smith, Chairman**  
**Shoshone-Paiute Tribes of the Duck Valley Indian Reservation**  
**April 24, 2013**

Chairman Simpson, Ranking Member Moran, and members of the Subcommittee, my name is Dennis Smith. I am the Chairman of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation. On the Tribes' behalf, I am pleased to submit testimony concerning the FY 2014 Budget for the BIA, BLM and IHS.

I am here today with a heavy heart. Earlier this month, my Tribe suffered a great loss. On April 4, 2013, my predecessor, Terry Gibson, walked on. He was only 52 and suffered a heart attack. He was a proud member of the Shoshone-Paiute Tribes and a strong defender of our sovereignty. He worked very hard to improve the health and spirit, education and economic condition of our Tribal members. That is where he devoted his considerable energies, including time here in Washington. We will carry on, but he will be deeply missed.

I will focus my testimony on the following priorities, priorities that were important to Terry:

- Appropriate an additional \$1 million for the **Bureau of Land Management** to fund Tribal cultural activities and to protect cultural sites and resources important to us under the Omnibus Public Land Management Act, Pub. L. 111-11, and support the President's FY 2014 Budget request of \$12 million to fund our Water Settlement under the same Act;
- Build on the President's budget request and increase funding within the **Public Safety and Justice, Human Services, Education, and Construction** accounts of the BIA to adequately staff, operate and maintain our juvenile detention facility and to help us replace our Tribal headquarters building closed as a result of black mold, and support and increase the President's budget for the **IHS Services and Facilities** accounts so that tribes may better coordinate health, substance abuse, mental health and related programs under the Tribal Law and Order Act, Violence Against Women Act and other laws;
- Increase **Contract Support Cost (CSC)** funding within the IHS to \$617 million;
- Oppose the Administration's unilateral proposal to cut off our contract support cost rights under the Indian Self-Determination Act (ISDA) — rights we currently hold in common with every other government contractor in America.

The Duck Valley Indian Reservation is a large, remote and rural reservation that straddles the Idaho-Nevada border along the Owyhee River. The Reservation encompasses 450 square miles in Elko County, Nevada and Owyhee County, Idaho. Over 1,700 tribal members, out of 2,000 enrolled members, reside on the Reservation. Tribal members make their living as farmers and ranchers, though many are employed by the Tribes. Since the mid-1990s, we have contracted the duties of the BIA and IHS under ISDA Self-Governance compacts. We also carry out other federal programs on behalf of HUD and the Federal Highway Administration.

We owe it to our members to provide them with a safe community with adequate programs, services and facilities to meet their needs. We are different from other communities as we do not have nearby localities to shore up services when Federal appropriations are cut. The obligations

of the United States to the Nation's federally recognized Indian tribes are not discretionary acts by the United States; these obligations are a direct product of the trust responsibility arising from our treaties, laws and court decisions that require the United States to protect and strengthen tribal governments and our members.

**Sequestration.** I am very concerned about sequestration because it dishonors the Federal trust responsibility. Indian tribes are taking a hard hit as a result. This year, our Federally-funded programs – which do not have enough money to begin with – must suffer a 5% sequestration cut. This is money we cannot replace. We do not have a tax base, and when our ISDA monies are cut, we lose matching funds and third party collections. If Congress does not replace sequestration by October 1, 2013, larger cuts in FY 2014 will wipe out the President's proposed increases and drop our funding to below FY 2012 levels. We are losing at least \$225,000 in BIA funds alone. How does the BIA honor the trust responsibility when no one answers the phone? I urge this Subcommittee to better protect Indian programs in the FY 2014 appropriations and, as you have so often done, honor the trust responsibility that we paid for with our land and lives.

**1. Fund the Owyhee Initiative and the Shoshone-Paiute Water Settlement.** The **Owyhee Initiative** is a joint effort by ranchers, recreationalists, Owyhee County and State officials, and the Shoshone-Paiute Tribes to protect public lands and waters in Owyhee County, Idaho that BLM administers by designating the lands Wilderness Areas and the waters Wild and Scenic Rivers. In 2009, Congress passed the Omnibus Public Land Management Act of 2009, Pub. L. 111-1. Our subtitle of that Act is the Owyhee Public Land Management (§§ 1501-1508); another is our Water Settlement (§§10801-10809). We are about to exhaust non-recurring funding from BLM and require \$1 million in FY 2014 to support important cultural programs.

One of the objectives of the Owyhee Initiative is to allow us to protect cultural and religious sites on BLM lands through coordination with the agency and Owyhee County officials, and to permit the Tribes to gather native plants for food or ceremony and to hunt and fish on these lands as we once did. Section 1506 of the Omnibus Act requires the Secretary of the Interior to coordinate with us to implement our Cultural Resources Protection Plan, and enter into agreements with us to “protect cultural sites and resources important to the continuation of the traditions and beliefs of the Tribes,” and to share in the management of cultural resources. Section 1508 authorizes such sums “as are necessary.” With \$250,000 in non-recurring funding that we received from BLM in 2010, and an additional \$500,000, we purchased equipment (pickup trucks, an ATV, a UTV and two airplanes, a Cessna 150 (2-seater trainer) and a Cessna 182 (4 seater), which we hanger outside Boise), to patrol the wilderness lands and notify BLM when we see activities near sacred sites. We funded trips to attend cultural protection meetings in the region, and hired a Chief Tribal Ranger (the former Owyhee County Sheriff) and Tribal Cultural Director. The activities have been severely curtailed, and we will soon run out of these funds. The Owyhee County Board of Commissioners supports our program and, like us, wants to see it funded.

It was Terry's wish to fund a Reserve Ranger Program for Tribal youth this summer, so that Tribal youth could see the wilderness areas, gather native plants for ceremonies, and leave with an enhanced understanding and appreciation of our people, traditions and culture. In his last visit here, he asked for help to fund the Youth Ranger Program this year. The FY 2014 Budget includes a \$1.5 million increase in the Wildlife Management Program and \$1.3 million increase in the Soil, Water, and Air Management to support BLM's **Youth in the Great Outdoors**

program. The Reserve Ranger Program was Terry's way to help our Tribal youth. Please provide additional funding to BLM, BIA and Fish & Wildlife programs to support our cultural programs and activities under the Owyhee Initiative and make Terry's wish come true.

**2. Duck Valley Juvenile Services Center and Tribal Headquarters Replacement Project.** – Infrastructure is in short supply on the Duck Valley Reservation. Due to a black mold infestation, we must replace our Tribal government buildings at a total estimated cost of \$15-\$16 million (2012 dollars). We now work out of trailers. To make the project affordable, we have broken the project into six phases. We are also renovating the Duck Valley Juvenile Services Center, a secure, detention and treatment facility, our first youth detention/treatment center. We were selected by the BIA this year for a pilot program under the Tribal Law and Order Act to design and implement best practices to deliver appropriate services to incarcerated Tribal adults and youth. However, both program and construction funds are in short supply. We need help to finance construction to build basic infrastructure. We oppose the President's cuts and ask for increases for construction (cut \$16 million), Federal loans/guarantees, IHS Mental Health (\$80 million), Alcohol & Substance Abuse (\$196 million) and Purchased/Referred Care programs.

As for construction, the reality in Indian country is that very few projects can be built with BIA or IHS funds alone. And when facilities are built and inspected, it is critical that staffing, operation and maintenance and programming funds be available to us so that the facilities do not sit idle. We ask Congress to increase program funding in the FY 2014 Budget for the BIA's **Public Safety and Justice, Human Services, Construction and Education** accounts, as well as increasing IHS and other DHHS program budgets to ensure that agency funds are available to Indian tribes to permit us to deliver program services in a comprehensive manner. This is especially important when it concerns Tribal juvenile detention facilities and support programs.

We are 140 miles south of Boise, Idaho, and 98 miles north of Elko, Nevada. Poverty and unemployment are widespread. As a result, some of our members struggle with alcohol and substance abuse, including our youth. For over a decade, it has been our goal to construct a secure, juvenile detention and treatment service center on our Reservation, rather than having our young members sent hundreds of miles to non-Indian detention facilities, far from home, family and culturally appropriate treatment. These transports also remove BIA law enforcement officers from the Reservation, which contributes to crime and delayed response times.

Next month, we will put out to bid the renovation of our existing Duck Valley Juvenile Services Center. When built, it will provide a modern and safe 19-bed youth detention and treatment facility so that Tribal youth can be housed on the Reservation. But Federal funding is inadequate to coordinate the governmental stakeholders (Tribal, BIA, BIE, IHS, Justice and DHHS's Substance Abuse and Mental Health Services Administration (SAMHSA)), and implement programs for adult and youth offenders. Secretarial-level Memoranda of Agreements between Justice, IHS and BIA do not work at the project level when there are insufficient funds to deliver coordinated programs and services. Understanding this reality will help tribes succeed.

With too little funding, IHS personnel have not been sufficiently engaged to coordinate substance abuse, mental health and related health services for incarcerated adult and youth offenders. SAMHSA officials are taking a lead with BIA Office of Law Enforcement Services officials, but a scheduled pilot program meeting this month on the Reservation with SAMHSA

officials was postponed due to sequestration. We need additional funds to recruit, hire and house substance abuse and mental health counselors to treat Tribal youth when the detention facility opens, as well as to house detention and law enforcement personnel. Only by pooling available resources in a coordinated manner can we halt and treat the behavioral issues that contribute to the cycle of substance abuse, crime and recidivism on the Reservation. We have grant funding to pay for two counselors that will run out in FY 2014 if not supplemented.

We support and urge the Subcommittee to build on the President's proposed increases of \$17.8 million for Public Safety and Justice, including \$13.4 million to staff newly-constructed detention facilities; we oppose \$10 million in cuts to the BIA Human Services account could fund more domestic violence and child abuse programs, especially with enactment of VAWA. We also oppose cuts to the BIA construction budget (-\$17 million) and the elimination of the BIA HIP Program (-\$12 million) as housing is in short supply on the Reservation.

3. **Contract Support Costs.** This Subcommittee, and you in particular Chairman Simpson, understand the importance of Contract Support Costs (CSCs) to tribal governments. You have been a real champion in recognizing the importance of CSC funds in carrying out programs and services that we assume from the BIA and IHS. You have understood that we only ask to be treated as well as, but no worse, than any other government contractor.

The President's Budget for FY 2014 again provides far too little for CSC funding for IHS. By not paying the full CSC amount of \$617 million, IHS forces us to cut program services or cut staffing to pay our fixed administration costs. This only penalizes the people we serve. At last count, we were underpaid over \$600,000 in CSC funding—a huge sum in lost health care in our small community. If we cannot provide the health service, residents must travel long distances for basic health care.

The IHS (and the BIA) would compound the problem for FY 2014. First, IHS has requested only \$477 million, \$140 million less than required for IHS to honor all ISDA agreements. Second, the IHS and BIA propose to individually cap FY 2014 payments of each tribe, meaning we would lose all the damage claims we have under existing law for the underpayments. This irresponsible and radical idea was developed in secret and without any prior consultation whatsoever. We have already accumulated \$3,154,312 in past losses, following the \$4 million settlement of our original claims in the Cherokee-Shoshone Paiute Supreme Court 2005 litigation; why in the world would we agree to allow the government to repeat past travesties?

Over a decade ago, I walked the halls of Congress to increase CSC funding for Indian tribes. We were among the first to file suit against the United States. We won in the Supreme Court, with a ruling that our self-governance compacts are every bit as solid as any other government contract. It is bad enough that Tribal contractors are the only government contractors that are regularly underpaid; it would add grave insult to that injury to now cut off all recourse in the courts—especially if the only reason is that we are Indians. This Administration is bound by its obligations to consult with Indian tribes before making policy changes that impact Tribes. This Subcommittee should reject the Administration's proposal and insist that the BIA and IHS consult with Indian tribes first before changing the manner in which CSC funds are paid to Tribes. Thank you for providing the Shoshone-Paiute Tribes the opportunity to present our views.