

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES**

**TESTIMONY OF SILAS C. WHITMAN
CHAIRMAN, NEZ PERCE TRIBAL EXECUTIVE COMMITTEE**

APRIL 24, 2013 PUBLIC WITNESS HEARINGS ON NATIVE AMERICAN ISSUES

Honorable Chairman and members of the Committee, as Chairman of the Nez Perce Tribal Executive Committee, I would like to thank you for the opportunity to provide testimony on behalf of the Nez Perce Tribe to this Committee as it evaluates and prioritizes the spending of the United States regarding IHS, BIA, EPA, the Forest Service and the Fish and Wildlife Service in relation to the needs of tribal nations.

As with any government, the Nez Perce Tribe does a wide array of work and provides a multitude of services to the tribal membership as well as the community at large. Congressman Simpson has seen in person the variety and the quality of the work done by the Tribe. The Nez Perce Tribe has a health clinic with a satellite office, a tribal police force, a social services department, a comprehensive natural resource program that does work in forestry, wildlife management, land services and land management, habitat restoration, air quality and smoke management, water quality and sewer service, and one of the largest fisheries departments of any tribe in the nation working on recovery of listed species under the Endangered Species Act. The Nez Perce Tribe conducts its extensive governmental functions and obligations through a comprehensive administrative framework, which is necessary for a sovereign nation that oversees and protects the treaty rights of the Nez Perce People in addition to providing the day to day governmental services to its members and the surrounding communities. The Nez Perce Tribe has long been a proponent of self determination for tribes and believes its primary obligation is to protect the treaty-reserved rights of the Nez Perce Tribe and its members. All of the work of the Tribe is guided by this principle. As a result, the Tribe works extensively with many federal agencies and proper funding for those agencies and their work with, for and through Tribes is of vital importance. This work cannot be accomplished unless the United States continues to affirm and follow through on its trust responsibility and properly fund programs. Therefore, although we are submitting testimony on FY 2014, it should be noted that the tribal leaders of the Tribal Interior Budget Council and NCAI passed unanimous resolutions that trust and treaty obligations to tribes should not be subject to sequestration.

Changes to Contract Support Costs

Under the President's proposed budget new statutory language has been proposed that implements individual statutory tribal caps on the payment of contract support costs for BIA and IHS contracts. This change was done without consultation with tribes. The Nez Perce Tribe supports the National Congress of American Indian's recommendation that consultation should be undertaken by IHS and the BIA with tribal nations and the proposed caps should not be implemented for FY14 and FY 15 while this consultation takes place. The Tribe also supports the NCAI recommendation of Congressional oversight hearings on this issue.

Indian Health Services

The Nez Perce Tribe currently operates one health care clinic on the Nez Perce Reservation, Nimiipuu Health, with the main clinic in Lapwai, Idaho and a satellite facility 65 miles away in Kamiah, Idaho. Nimiipuu Health provided service to 3,870 patients last year. These 3,870 patients represented 79,573 visits, which included pharmacy and laboratory visits in addition to medical provider visits. Our expenditure total for FY2011 was \$12,555,959. Our Contract Health Services (CHS) cost for outpatient services for FY2012 was \$3,709,629.51. The Nez Perce Tribe supports funding for Indian Health Service with a \$500 million increase to maintain current services and a \$478 million dollar increase for program services. In addition, \$615 million should be allocated for Contract Support Costs.

Bureau of Indian Affairs

The Tribe supports the Presidential budget request to include a Carcieri fix to address legal issues that have been arising related to the transfer of land into trust. The Tribe also requests more emphasis be placed on funding for contract support costs through the BIA and that it be funded fully at \$242 million dollars. However, the Tribe does not support the elimination of the Housing Improvement Program under the President's Budget.

In their FY11 budget proposal, the BIA proposed several spending recommendations for improving trust land management that were supported by the Tribe. The Nez Perce Tribe entered into an agreement with the United States in 2005 known as the Snake River Basin Water Rights Settlement Act of 2004 (Title X of Division J of P.L.108-447, 118 Stat. 3431, et seq.). A component of the agreement was the transfer of approximately 11,000 acres of land from the Bureau of Land Management to the Tribe. The lands were supposed to be surveyed as part of the transfer. Full funding for those surveys has not been made to this date. The FY11 budget request called for \$695,000 for that fiscal year to begin that process. Although that amount would not cover the full cost of the surveys, it would allow the process to begin. The Tribe supports a renewal of that appropriation request in the FY14 budget that was not funded during the past several budget cycles. It should be noted that the last payment under the Snake River Basin Water Right Act of 2004 is scheduled to be made during the remainder of FY13. The Tribe appreciates the continued and timely funding of payments that were set forth in this agreement.

In relation to the Bureau of Indian Affairs Public Safety and Justice budget, the Tribe advocates for \$358 Million dollars in funding. The Nez Perce Reservation covers 1200 square miles and covers five counties and has a mixture of tribal and non-tribal residents. With the exception of a detention center and public defender's office that are contracted for, the Tribe provides a full service law and justice program, beginning with a fully trained and staffed police force, tribal court, prosecutor and related administrative functions. Currently, the Nez Perce Tribe contributes over \$600,000 per year to cover the shortfall in BIA funding for the Tribe's law enforcement. This funding comes from cigarette taxes levied by the Tribe. In addition, the Tribe received no funding for its tribal court so the \$1 million dollar increase in funding for tribal

courts proposed in the President's budget is supported.

In relation to education, the Tribe requests \$36 million for Johnson O'Malley Funding, \$5 million for tribal education departments and \$94.3 million for tribal colleges as the Northwest Indian College operates a satellite campus on the Nez Perce Reservation.

The Tribe also relies on the BIA for funding for its work related to endangered species and protection of the Tribe's treaty resources including Chinook and steelhead salmon. The funding has also been used to supplement the research efforts of the Tribe relative to Big Horn Sheep. The BIA Endangered Species Program should be funded at \$3 million dollars as it provides tribes with the technical and financial assistance to protect endangered species on trust lands but funding of this program has declined significantly over the last 8 years.

In addition, the funding provided under the BIA Rights Protection fund is critical as it supports the exercise of off-reservation hunting and fishing for tribes like the Nez Perce and it should be funded at \$49.5 million dollars. The BIA single-line dollars do provide the foundation for core program administration and treaty rights protection activities, such as harvest monitoring and conservation enforcement. And of course, these efforts are central to the Tribe's fisheries management responsibilities as established in the treaties and further delineated in litigation regarding implementation of hunting and fishing treaty rights. It is important to understand that this funding is not for equipment but is used for job creation and this funding has stayed static.

The Nez Perce Tribe utilizes the Pacific Coast Salmon Recovery Fund and it should be funded at \$110 million dollars. The Nez Perce funding received under this budget is used to rear 300,000 local stock coho smolts at Dworshak and Kooskia hatcheries in the Clearwater River Basin. We also truck an additional 550,000 coho smolts from a lower Columbia River hatchery (Eagle Creek Hatchery) up to the Clearwater for release. Based on PIT tag information, 15,000 coho adults from our Clearwater releases crossed Bonneville Dam in 2011 where they provided a fishery for tribal and non-tribal fisheries on the Columbia River. Over 5,000 swam on to cross Lower Granite Dam where they continued to provide a fishery, provide broodstock for the hatchery program and spawners in the wild. Continued appropriations for this fund will allow this successful work to continue. The Tribal Management and Development Program also needs increased funding. NCAI has recommended \$20 Million for base and programmatic funding. This program is critical for fish and wildlife management of the Tribe.

The Tribe supports the NCAI funding requests for the BIA Wildlife and Parks Tribal Priority Allocations of \$3 million dollars and \$6 million dollars as these funds allow for important work to be done on fish recovery through hatchery operation and maintenance. As stated earlier, the Tribe has invested a large amount of its personnel and resources in the restoration and recovery of this important resource through its fisheries programs. The state of Idaho directly benefits from this work as well through its sports fisheries. These programs have been successful but more work needs to be done.

Fish and Wildlife Service, Forest Service Cultural Protection

The Tribe relies heavily on funding sources within the Fish and Wildlife Service and the Forest Service. First, the Tribal Wildlife Grants account for a small pot of money that has resulted in huge returns from the Tribe's perspective. This competitive grant does not simply dole out funds for projects but awards grants based on the quality of the proposal. The Tribe has received funding from this grant four out of the last five years based on the quality of our research work on Big Horn Sheep. The Big Horn Sheep is a treaty resource of the Tribe that is declining rapidly within the Tribe's ceded territory. The funds from this program provide the resources to keep the research going. Funding for these grants was reduced in FY12 and FY13. The Tribe strongly urges this committee to increase this funding as it provides a large return in work for a small investment. It is also one of the few sources of funds tribes can tap into for wildlife research.

The Tribe also supports increased funding for the work of the Forest Service in the protection of treaty reserved resources of tribes. There should be \$31.2 million dollars allocated for BIA Tribal Forestry Priority Allocations and \$23.6 million for BIA forestry projects. The Nez Perce Tribe reservation and its usual and accustomed areas are rich in natural resources and encompass eleven different national forests. The Tribe works closely with each forest administration to properly manage its resources on behalf of the Tribe. These range from protecting and properly managing the products of the forest to managing the vast wildlife in each one such as elk, deer, bighorn sheep and wolves. Increased funding is necessary so that the Forest Service can meet these trust obligations and continue to work with tribes such as the Nez Perce on a government to government basis. Finally, there should be \$15 million dollars allocated for the Tribal Historic Preservation Office Program and \$4 million dollars for repatriation to help ensure tribal remains and cultural properties are protected to the greatest extent possible.

Environmental Protection Agency

The Nez Perce Tribe currently implements, on behalf of the Environmental Protection Agency, the Federal Air Rules for Reservations program (FARR) and receives funding from the State and Tribal Grant Program. The \$5 million dollar increase in the President's budget is important and is support by the Tribe. The FARR program monitors air quality and regulates field burning throughout the Nez Perce Reservation. The Tribe is located in Region 10 of the EPA and this increase in funding is needed for Tribes to meet their air quality needs and operate programs under the delegation of the EPA.

In addition to the air quality program, the Nez Perce Tribe is working with other Idaho Tribes on studying of fish consumption rates which is important in protecting the health of tribal members. Funding for this work is important. The Tribe is also currently in facilitated discussions with the state of Idaho that are being funded through grants from the EPA. The facilitated discussions involve the Tribe adopting water quality standards to improve the water quality on the Nez Perce Reservation. The Tribe also relies heavily on contract support dollars for our water resource programs such as storage tank remediation and watershed restoration.