

Metlakatla Indian Community

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Testimony submitted to the House and the Senate Appropriations Subcommittees
on Interior, Environment and Related Agencies
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Concerning the FY 2017 Indian Health Service and Bureau of Indian Affairs Budgets

Summary. The requests of the Metlakatla Indian Community for FY 2017 are:

- Support Contract Support Cost (CSC) funding as being a separate, indefinite appropriation; remove the proviso potentially limiting carryover authority for CSC; and support permanent and mandatory CSC funding.
- Exempt the IHS from any future sequestration, as Congress has done for the Veterans Health Administration programs.
- Permanently authorize the Special Diabetes Program for Indians.
- Substantially increase funding for BIA Natural Resources Management.

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The Metlakatla Indian Community (Tribe) is located on the Annette Island Reserve in southeast Alaska, a land base of 87,000 acres. Through our Annette Island Service Unit we provide primary health services at our outpatient facility through funding from the IHS as a co-signer to the Alaska Tribal Health Compact under the Indian Self-Determination and Education Assistance Act. We have significant fish and forestry resources, but as noted elsewhere in this testimony, we require more resources to fully manage them.

Contract Support Costs (CSC). We appreciate the change made to funding of CSC in the FY 2016 appropriations act, which made the FY 2016 CSC funding for an indefinite amount. This shift helped to ensure that CSC would be fully funded without having to reprogram funding for critical health care services and other programmatic funding to cover the CSC need.

For FY 2017, we support the President's request for an appropriation of "such sums as may be necessary," with an estimated \$800 million for CSC for the IHS, and an estimated \$278 million for the BIA, in separate accounts in both the IHS and BIA discretionary budgets. However, we request the removal of the following proviso: "amounts obligated but not expended by a tribe or tribal organization for contract support costs for such agreements for the current fiscal year shall be applied to contract support costs otherwise due for such agreements for

subsequent fiscal years.” This proviso, which we understand the IHS proposed be included in the FY 2016 appropriations language, is problematic because it could be misread to effectively deny the carryover authority granted by the Indian Self-Determination and Education Assistance Act. We thus ask that the proviso be removed for FY 2017 and thereafter.

The Tribe’s long-term goal, however, remains that the indefinite appropriation of CSC funding be made mandatory and permanent. Under the Indian Self-Determination and Education Assistance Act, the full payment of CSC is not discretionary; it is a legal obligation, affirmed by the U.S Supreme Court. Funding of CSC on a discretionary basis has placed the House and Senate Committees on Appropriations, in their own words, of being in the “untenable position of appropriating discretionary funds for the payment of any legally obligated contract support costs.” We are committed to working together with the Senate Committee on Indian Affairs and the House Natural Resources Committee to determine how best to achieve that goal. We also ask for the Subcommittees’ intervention with the Budget Committee and any others that may influence this proposal for mandatory CSC funding.

Sequestration. We continue to ask that IHS funding be exempt from sequestration, as is the Veterans Health Administration (VA) programs. We understand that a number of members of Congress previously indicated that it was an oversight that IHS was not exempt from sequestration in the past and that the oversight should be corrected. The VA was made fully exempt from sequestration for all programs administered by the VA. *See* § 255 of the Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended by P.L. 111-139 (2010). Also exempt are state Medicaid grants and Medicare payments, which are held harmless except for a 2 percent reduction for administration of the program. We thus strongly urge the Subcommittee to support an amendment to the BBEDCA to fully exempt the IHS from any future sequestration.

Special Diabetes Program for Indians. While we understand that the Special Diabetes Program for Indians (SDPI) is not part of the IHS appropriations process, the SDPI funds are administered by the IHS. The current authorization and funding for the SDPI expires at the end of FY 2017. The SDPI provides crucial funding for diabetes treatment and prevention programs for Alaska Natives and American Indians, among whom diabetes is an epidemic. As we have expressed in the past, the SDPI is an indispensable program that has shown identifiable, significant outcomes – both in terms of access to treatment and prevention. We support the Administration’s proposal that the SDPI be permanently authorized, and hopefully at an increased amount. SDPI has been flat funded at \$150 million for many years. We ask for your support of the efforts to pass such an authorization as quickly as possible—well in advance of the SDPI’s expiration in September, 2017—so that these critical programs can continue to provide uninterrupted care and our contracts can be renewed without disruption and loss of expertise.

BIA Natural Resources Funding. Metlakatla has the only reservation (Annette Island Reserve) within the State of Alaska—87,000 acres, plus the marine waters 3,000 feet out from the shorelines of Annette Islands. We did not participate in the Alaska Native Claims Settlement Act (ANCSA), though we were given the opportunity to do so. Instead we communicated to the Congressional drafters of ANCSA the need for the Reservation to stay intact. Section 19 of ANCSA thus excludes the Tribe, preserving the Tribe’s trust land and reservation intact.

The Alaska Congressional delegation sent a joint letter on December 16, 2015 to Assistant Secretary Washburn at the BIA requesting information and a response to a significant issue: the BIA has, for decades, underfunded our natural resource programs. The BIA, thus far, has not responded.

The Alaska Congressional delegation acknowledges that we have produced a detailed analysis of not only the funding we currently receive to carry out BIA natural resource programs (\$957,205), but an analysis of the funding necessary to adequately protect the trust assets (our lands, waters, habitat, minerals, and fish and wildlife), and also to steward those trust assets to meeting tribal needs on an ongoing basis. We determined that our BIA natural resource programs require a total funding of \$3,118,050 on an annual basis, which means additional appropriations in the amount of \$2,160,845.

This breaks down as additional funds needed for the Tribe in the following budgetary accounts: BIA Hatchery Operations (+\$1,155,900); Fisheries Management and Development & Wildlife Management and Development (+\$201,456); Forestry (+\$439,772); Other Rights Protection (including water) (+\$208,123); and Mineral Development (+\$155,594). All of these funds have been requested directly from the BIA in a recent Title I Self-Determination contract request, but during negotiations on February 8, 2016, the BIA indicated there are no new funds available for these programs. The Tribe is awaiting the official written contract declination from the BIA.

We urge the Committee to fully fund these needs so that the Tribe can adequately carry out responsibilities that are critical to ensure that the Tribe's natural resources programs are adequately funded. We have a water shortage crisis at the Tribe currently, and there is no doubt that greater natural resources program funding would assist us in better understanding its causes and implementing solutions. I discuss below two of these program areas—Fisheries and Forestry—to greater illustrate all that is involved in carrying out these natural resource programs, the existing inequitable share of these funds that the Tribe receives in comparison with other Tribes in the Northwest, and why this funding is so critical to the Tribe.

Fisheries: Because State-managed waters surround the Reservation's waters, and because there is no court-ordered co-management relationship between the Tribe and the State, Tribal fisheries must be managed in a way that accounts for the Tribe's fishing effort, as well as the State's. This must be done without having any influence over the State's management strategies, which, at times, have been preemptive of our subsistence and harvest rights. In order to properly manage our fishery resources, we need to bring our own scientists and resource managers to the table, but have insufficient funding to do so.

We manage the following commercial fisheries (subject to Secretarial approval): *Salmon*—The Tribe's fishery is the largest tribally managed salmon fishery in the Nation. In fact, the Tribe annually harvests more salmon than the five top fishing tribes in western Washington combined; *Herring*—we manage the second largest herring stock in southeast Alaska (second only to the Sitka fishery), the largest (almost certainly the only) tribally managed herring fishery in the Nation; *Halibut*—our halibut fishery is comparable to the tribal halibut

fisheries in western Washington; and *Dive Fisheries for Sea Cucumber and Geoduck*—Comparable to tribal fisheries in western Washington.

The tribes of western Washington, which conduct fisheries that are most similar to the Tribe's, also have complex managerial, technical and scientific needs. Yet, their funding, although substantially greater than the Tribe's, is still inadequate to cover the costs of retaining staff in each of the individual disciplines that, in combination, make up a legitimate fishery management program. However, Congress, through the BIA, makes millions of dollars available to the Northwest Indian Fisheries Commission (NWIFC) for that very purpose. The NWIFC, like the Columbia River Inter-Tribal Fish Commission, is able to draw on economies of scale and consortia staff, so that when tribes meet with the State, or other management authorities, they are supported by expertise that the State cannot ignore. By contrast, the Tribe not only does not have the funds necessary to hire its own experts, we are also not able to draw upon the expertise of an inter-tribal consortium.

Our Tamgas Creek Hatchery is possibly the largest tribally-operated hatchery in the nation, but it inexplicably receives \$0 in the Hatchery Operations line item in the BIA budget, while Oregon and Washington tribes receive substantial funding. Because of the role that hatcheries play in sustaining tribal fishing rights, every significant tribal hatchery in Washington state receives Hatchery Operations funding through the BIA budget, but Metlakatla receives none. Since the Tribe cannot compel the State to consider the Tribe's needs, the Tribe's only recourse is to increase the production of fish at its hatchery that will return to the Reserve, trusting that enough fish will get through the harvest gauntlet to meet the Tribe's needs. Our Tribe is very much on its own. When considered in this light, the disparity between the fishery management support available to western Washington tribes and the support available to us is enormous. As a result, we are severely handicapped in efforts to protect our fishing rights and conserve our fishery resources.

Forestry: A second example of critically needed funding to meet tribal natural resource program needs is in the forestry program. We receive \$62,278 for our forestry program. This is insufficient funding to hire even one position in the program, let alone plan, design, and implement silvicultural prescriptions, forest harvest, conservation, and wildfire prevention and control strategies on the 21,172 acres of commercial forestland, and 54,197 acres of non-commercial forestland and associated muskeg habitat. Using the formula developed by the IFMAT III team in 2011, the Tribe's forestry program should receive a minimum of \$646,223.32 in federal funding in order to ensure forest health and federal trust obligations are met. Without this funding, we cannot maintain healthy forests that are not susceptible to fire risk, nor can we count on our forests for any jobs and income going forward. We have requested less than this full amount, or only an additional \$439,772.

We are glad to provide any additional information you may request. Thank you for your consideration of our concerns and needs.