

**Testimony of Charlene Nelson
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for the House and Senate Appropriations Subcommittees on Interior,
Environment and Related Agencies
FY 2018 Appropriations

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The requests of the Shoalwater Bay Indian Tribe (Tribe) for the FY 2018 Interior, Environment, and Related Agencies budget are as follows:

- Appropriate \$480,000 through the Tribe's self-government agreement with the BIA to address initial planning efforts in the first phase of a necessary tribal relocation.
- Move forward with full and mandatory funding for Contract Support Costs (CSC).
- Funding for tribal courts in PL 83-280 states.
- Shield IHS funding from sequestration.

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Background.

Good afternoon Chairman Calvert and members of the Sub-Committee. Thank you for inviting the Shoalwater Bay Indian Tribe to provide testimony at this hearing on FY 2018 funding for programs affecting Indian tribes which are funded through your Subcommittee. My name is Charlene Nelson, and I am the Chairwoman of the Shoalwater Bay Indian Tribe which is located 2,800 miles west by northwest of where we are meeting today on the beautiful north shore of Willapa Bay, facing out to the Pacific Ocean.

My own personal history matches closely with many of you serving on this Subcommittee, as I understand you consistently are tasked with determining how to fund and shape federal programs that positively impact the health, environment, and learning of American people. I worked for decades in the field of education. As a former commercial fisherman in Alaska, I came to understand the economic potential of a healthy environment. Prior to my service on Tribal Council, I worked in the Tribe's Health and Women's Wellness Program, learning firsthand that vibrant and successful Indian communities are not possible without first attending to human health.

Relocation Assistance.

I am here today to talk to you about survival. In this case, the survival of our Tribe, its lands, homes, businesses, and its people. This is my second stint as Chairwoman of the Shoalwater Bay Tribe. During my prior period chairing the Tribe, I spent the vast majority of those ten years spearheading an effort to help the Tribe and surrounding area survive the threat of coastal erosion. As a result of those efforts, the Army Corps of Engineers worked with the Tribe to construct an erosion control embankment south and west of the Reservation. The embankment went into service four years ago and this winter it took a beating and is now a new concern of the Tribe and the Corps. The embankment has temporarily halted the erosion that directly threatened the Reservation and State Highway 105, which connects the surrounding Tokeland community to schools, grocery stores, health care, banks, and housing.

But through the process of fighting for the Tribe's survival from coastal erosion, we learned a great deal. We learned, among many other things, that essentially the entire Reservation, with one small exception on Eagle Hill, is no higher than 6 feet above the ordinary high water mark of the Willapa Bay tides. The low elevation of the entire reservation puts it squarely within a tsunami zone that ensures, in the case of a tsunami event, that the Reservation would be wiped out. Think about that for a moment—an entire Tribe wiped out in an instant.

Attached to this testimony is a map entitled Exhibit A that lays out the Tribe's intentions: to begin the preliminary engineering, planning and initial funding to construct a road to an upland elevation, out of the tsunami zone, to begin the relocation process of the Tribe. The cost to carry out this initial phase of work is \$480,000, and the Tribe is seeking this Subcommittee's support in developing a funding vehicle to support these efforts through the Tribe's existing BIA self-governance compact.

Exhibit A shows a part of the Reservation at the bottom left intersection, as well as Highway 105 in yellow. The new road, to the north east of the main reservation, will provide access to a higher elevation land base that the Tribe owns that is safe from the threats of coastal erosion and tsunami.

This relocation project will require a number of partners, the tribe, state, Interior Corps of Engineers. While our request today is for planning money for the Tribe from the BIA., other, temporary efforts are under serious consideration. For instance, realizing how dire she situation is, the state and Corps of Engineers have under serious and immediate consideration a joint project for a dynamic revetment to help protect the berm which is endangered because the wave action is now split where it hits the shore and part goes north and part comes toward the berm. We appreciate these efforts but the Tribe also needs the resources to be actively involved in what ultimately is our own relocation.

Contract Support Costs (CSC).

Our great thanks for this Subcommittee's leadership in making funding of IHS and BIA contract support costs (CSC) for FY 2016, and now FY 2017, an indefinite amount and also making made it a separate account in the IHS and BIA budgets. This shift makes an enormous difference in helping ensure that the Indian Self-Determination and Education Assistance Act (ISDEAA) is fully funded and implemented as Congress intended in these two agencies. It also

significantly enhances the federal-tribal government-to-government relationship. For IHS, the FY 2017 estimate for contract support costs is \$800 million, and for the BIA it is \$278 million.

Thank you also for listening to tribes who explained why the problematic IHS-supported FY 2016 enacted bill proviso which effectively denied the CSC carryover authority granted by the ISDEAA. We appreciate that this proviso is absent from the Consolidated Appropriations Act for FY 2017.

Our objective, though, continues to be the indefinite appropriation of CSC funding as mandatory and permanent. Full payment of CSC is not discretionary; it is a legal obligation under the ISDEAA, affirmed by the U.S. Supreme Court. Funding of CSC on a discretionary basis has in the very recent past placed the House and Senate Appropriations Committees, in their own words, in the "untenable position of appropriating discretionary funds for the payment of any legally obligated contract support costs." We remain committed to working with the appropriate Congressional committees to determine how best to achieve this objective.

Tribal Court Assistance for Tribes Subject to PL 83-280.

We appreciate the much-needed support in the FY 2017 appropriations bill for tribes who are affected by Public Law 83-280 and who are striving to serve their communities with competent and appropriate judiciary systems.

The FY 2017 Explanatory Language accompanying the Consolidated Appropriations Act, FY 2017 would increase BIA Tribal Justice Support funding for tribes affected by PL 83-280 (first enacted during the early 1950s termination era) who are working to exercise their rightful jurisdiction on domestic violence and other matters, and to increase available remedies and services for crime victims. It is very important for the future of tribal nations affected by PL 83-280 to continue development of robust criminal jurisdiction systems. We quote below the FY 2017 language:

“Funding for Tribal justice support is restored to \$17,250,000, of which not less than \$10,000,000 is to address the needs of Tribes affected by Public Law 83-280. The Committees remain concerned about Tribal court needs as identified in the Indian Law and Order Commission’s November 2013 report, which notes Federal investment in Tribal justice in “P.L. 280” States has been more limited than elsewhere in Indian Country. The Committees expect the Bureau to work with Tribes and Tribal organizations in these states to fund plans that design, promote, sustain, or pilot courts systems subject to jurisdiction under Public Law 83-280. The Bureau is also directed to formally consult and maintain open communication throughout the process with Tribes and Tribal organizations on how this funding supports the technical infrastructure and future Tribal court needs for these jurisdictions.”

Shield IHS Funding From Sequestration.

We have requested in our previous years' testimony that the IHS budget be protected from sequestration. We again ask this Subcommittee's support of an amendment to the Balanced Budget and Emergency Deficit Control Act to exempt the IHS from sequestration of funds, just as Congress has done for the Veterans Health Administration's health programs. We are very concerned that the current FY 2018 funding cap for non-defense discretionary spending is lower than the FY 2017 spending cap, and when considered along with the President's "skinny" FY 2018 budget outline proposal, which significantly lowers non-defense discretionary spending, we fear a significant sequestration of funds in FY 2018. IHS funding for health care services should be made exempt from sequestration.



EXHIBIT A – Phase 1 Upland Development Project
Tribal Lake Road (Main Entrance) and
Tribal Administration Site