

**Acting Chairman Darrell Shay, Fort Hall Business Council, Shoshone-Bannock Tribes
House Interior Appropriations Subcommittee: May 17, 2017**

My name is Darrell Shay, and I am serving as the Acting Chairman of the Fort Hall Business Council, the governing body of the Shoshone-Bannock Tribes (“Tribes”) of the Fort Hall Reservation (“Reservation”) in southeast Idaho. The Tribes are a federally recognized tribe, composed of several bands of Shoshone and Bannock people whose traditional lands extend into what is now the states of Idaho, Wyoming, Montana, Utah, Nevada, and Oregon. President Johnson established the Reservation by Executive Order in 1867, and the 1868 Fort Bridger Treaty (Treaty) affirmed the Reservation as our permanent home. In signing our Treaty, our people reserved the right to exercise off reservation hunting, gathering and fishing rights. My testimony today will focus on the following: (1) the need to ensure that federal positions are filled at agencies that assist in providing essential services to Tribal members; (2) funding needs for PL 93-638 programs; (3) healthcare needs of the Tribes; (4) infrastructure needs on the Reservation; (5) the needs of the Shoshone-Bannock Jr/Sr High School (School); (6) the need to protect EPA tribal programs; and (7) the need to remediate Superfund sites located on and near the Reservation.

Need to address Unfilled Positions and Inadequate Staffing for Federal Services to Tribes

Federal funding for tribal government programs and services is designed to meet the U.S.’s legal treaty and trust obligations to Indian tribes, as well as respect the constitutional status of tribes as separate governments. The U.S. has consistently failed to meet these obligations by providing insufficient funding for federal programs for tribes. The recent federal hiring freeze has harmed the delivery of essential services to our Reservation. Funding shortfalls leaves tribal programs without the resources to administer these essential programs. There should be adequate funding, especially at BIA and IHS, to ensure qualified staff can provide critical services to the Tribes.

Need for Adequate Funding for BIA Self-Determination and Self-Governance Programs

BIA funding for PL 93-638 contracted programs has been underfunded for decades, which has contributed to the Tribes’ inability to provide needed environmental review and analyses, conduct cadastral surveys or provide input into regulatory processes. This insufficient funding creates serious difficulties with Tribal self-determination and self-governance programs. The Tribes must supplement these 638 programs or cobble together several programs to create sufficient funding for one full-time employee, who is then responsible for a wide variety of tasks for several programs. These 638 programs are responsible for not only managing natural and cultural resources on the Reservation but also providing necessary environmental and regulatory compliance for community and economic development projects. *We urge the Subcommittee to increase BIA funds for PL 93-638 programs so the Tribes can directly administer self-determination and self-governance programs on the Reservation.*

Need for Adequate Funding to Address Tribal Health Care Needs

Addressing the health care needs for our people is one of our highest priorities. Our Treaty contains provisions that guarantee the U.S. will provide health care for the Tribes. Over the past 149 years since the Treaty was signed, the U.S. has a long history of providing poor health care services for the Tribes. The current budget formula for IHS provides only 50% of health care needs. Our health programs are chronically underfunded. This lack of funding has created a crisis where our health care facility can only address “life or limb” needs. Due to these severe

IHS funding shortfalls, the Tribes must allocate supplemental funding, which seriously impacts the Tribe's limited operating budget, to ensure our people have access to basic health care services. ***The Tribes request that IHS health facilities and IHS headquarters have the same flexibility to adjust programmatic funds across accounts to maximize efficient use of federal dollars. We also ask that IHS and BIA be permanently exempt from any future sequestrations.***

The Tribes have prioritized wellness to serve the needs of the community in a multitude of ways. The huge expenditures associated with treatment of many health-related problems could be easily avoided with lifestyle intervention, and the Tribes hope to open a wellness center to ensure that the community has access to necessary resources to make a healthy lifestyle achievable. ***We urge the Subcommittee to prioritize community wellness initiatives within the IHS.***

Longstanding Infrastructure Needs on the Reservation

The Tribes' infrastructure is sub-standard compared to state and local infrastructure. The Tribes embraced Self-Determination and entered into 93-638 contracts with the BIA, but we inherited antiquated roads, water and sewer, housing and other infrastructure systems. Unfortunately, we lack sufficient financial opportunities to address our dire infrastructure needs.

Solid Waste: Solid waste management on the Reservation is a major unmet infrastructure need for our rapidly increasing population. Our Transfer Station is inadequate to accommodate the current solid waste disposal needs for Reservation residents and businesses; and, in 2016, we expended \$101,852 for off-site land fill disposal fees. Little to no recycling can be provided because there is no space or facilities to sort recyclables. We have a fleet of six commercial trucks, each costing \$170,000 to maintain and operate. With no covered storage garage, the trucks are vulnerable to the weather and criminal elements, such as weather-related breakdowns, rodent infestations, and vandalism. Repairs and maintenance must be accommodated by costly offsite vendors. The disposal pad lacks space and is nearing the end of its life cycle. In addition, we encountered severe winter conditions this year which resulted in major Reservation flooding, destroying two outbuildings and a shop and causing major damage to the central pad for waste transfer. It will cost \$6 million to construct and operate a suitable solid waste facility.

Community Water System: The Tribes have a drinking water system that is comprised of three wells, three storage tanks, and 59 miles of distribution piping. The water distribution system has seen significant development in the past two decades, with three new wells, a storage reservoir, and 40 miles of piping. These recent water system upgrades were implemented to protect our people from groundwater contamination due to high nitrate levels and Ethylene Dibromide plumes from non-Reservation sources. As the population on the Reservation continues to grow, additional development of supply, storage, treatment, and water distribution systems will be needed to continue to provide safe drinking water.

Community Wastewater System: The Tribes have a wastewater system comprised of 9.5 miles of gravity sewer, 1.5 miles of forced main (pressurized) sewer, four lift stations, 41 acres of treatment lagoons, a collection system of sewer lines and a land application system. In 2016, 5.9 miles of the gravity sewer system were inspected and the results identified various levels of structural integrity of the sewer system, from structurally sound to near collapse. Mitigation

plans to address replacement and maintenance needs are being developed. The Tribes are in the process of developing a water and wastewater facilities study to identify deficiencies in the systems and outline and prioritize projects for future funding. Preliminary costs for improvements needed for our wastewater system are estimated at \$3.1 million in sewer replacement and upgrades. An additional \$1.5 million is needed to provide upgrades and maintenance for our community water system. ***We request the Subcommittee provide funding for essential infrastructure needs, including solid waste management and water and sewer infrastructure.***

Needs of the Shoshone-Bannock Jr./Sr. High School

The mission of the School, a tribally controlled school administered by the BIE, is to instill pride and teach our children about our language, culture, and traditions and to assist them in becoming productive citizens. The School is severely underfunded, especially in the area of the BIE Indian School Equalization Program (ISEP), which provides funding to operate the School, including teacher and staff salaries, equipment, supplies, maintenance, etc. Our funding should be increasing with each consecutive year due to increased costs and increased student population instead of decreasing. ISEP currently allocates \$4,427 per student to BIE schools. The School has 110 enrolled students, which results in \$486,970 in annual funding for their education from the BIE. For comparison, the State of Idaho spends \$6,821 per student. Under the State of Idaho's funding schedule, the School would receive \$750,310 annually, a 54% increase from the current BIE ISEP funding. The current level of funding does not address the needs of our students in reading, science and math. We are developing a plan to provide remediation, intervention, and long term sustainability of core academic programs that require more human resources and more resources to develop curriculum. Recently, the School developed new English Language Arts curriculum that is scientifically research based but is also in need of adequate staffing. Further, the School seeks to address student needs in math through scientifically proven needs-based curriculum but lacks the funds needed to accomplish this. ***We urge the Subcommittee to increase funding for BIE schools to meet the full level of need.***

The School depends on short-term grants to supplement its annual budget, leaving uncertainty from year to year relating to whether critical programming and staffing can be provided. For example, the BIE awarded the School a 3-year Student Improvement Grant (SIG) in August 2012. This grant allowed the School to develop strategic, intensive, and sustained support systems to improve student math and reading skills and social and life skills necessary for success. As a result, students made significant academic gains supported by test score data. However, once the three-year grant period was over, the School could not sustain many of the initiatives that led to the overall improvement. The funds were a tremendous resource for the School, our students, and our community, and unfortunately the base funding from ISEP does not provide the resources necessary to cultivate increases in academic success. The increases could be re-sustained if adequate, continued funding could be made available.

The School recently launched a comprehensive technical trades program for the 2017-18 school year. In response to community requests, the School has implemented a technical electrical and technical mechanical engineering program. This program is built into the School's schedule and provides training to certify students in a variety of trades where basic mechanical and electrical engineering skills are needed. This program will also provide a daily class for 6th-12th graders in

life skills management and social-emotional mentoring, all built into a curriculum based upon the Wisdom Circle of many Native cultures. In order to sustain this program after start-up, the School will need funding to sustain the program long term.

Concerns over Reorganization of BIE and Negative Impacts Upon School

The BIE recently reorganized under the guise of efficiency. The School's Education Line Office in MT was eliminated as well as the Education Line Officer upon whom the School relied to provide information from BIE. Since then, the School has had irregular communication with BIE. The School's Associate Deputy Director (ADD) was assigned elsewhere and now the School's assigned ADD is located in Minnesota. The previous ADD worked with the School on a weekly basis as we were 1 of 25 schools he oversaw. Under the new plan, the School is 1 of over 90 schools that the new ADD is supposed to support and provide guidance. This reorganization has resulted in a huge void in communication, support, and guidance for the School. ***We urge the Subcommittee to direct the BIE to provide clarity on the delineation of authority and guidance available to BIE-funded schools and ensure sufficient support and communication.***

Protecting Critical EPA Funding for Tribal Programs

The Tribes' Water Resources Water Quality Program receives funds from EPA under the Clean Water Act, Section 106 (Water Pollution Control), and the Indian Environmental General Assistance Program (GAP) grant. This funding helps us identify and address water quality issues on the Reservation. The Tribes' Water Quality Program lacks sufficient resources to protect our water quality, which is vital to developing a healthy community. The challenge of protecting water quality on the Reservation will become increasingly difficult as our own population grows as well as the population around us in surrounding communities and exacerbated by increased use of chemicals and depletion of natural resources from industrial and agricultural development around us. We are deeply concerned about the funding and personnel cuts proposed in Trump Administration budget proposals for EPA. ***We urge that the Subcommittee protect funding for tribal programs or programs that impact tribes administered by EPA.***

Superfund Site Remediation and Environmental Concerns

For more than 60 years, the health, environment, and safety of our residents have been subjected to hazardous pollution caused by phosphate mining by FMC on and near our Reservation lands since 1940. In 1990, the EPA listed the FMC site on the National Priority List as the Eastern Michaud Flats (EMF) Superfund Site. For decades, FMC held the hazardous waste in unlined holding ponds with unknown damage and contamination done to the earth and ground water. After EPA listed the Site, FMC lined the ponds that held the hazardous waste, but it severely mismanaged the ponds, and they caught fire a number of times. FMC shut down operations in 2001 and dismantled the then-existing treatment system. Poisons continue to pollute the air and seep into the groundwater. Thousands of mammals and birds that have come into contact with the Site have died. The Site has also affected our Bottoms area on the Reservation, which are our sacred hunting grounds. DOI shares a trust responsibility with EPA to protect our lands, our well-being, and our natural resources; but, thus far, has not acted to assist us in remediating this area. ***We request that the Subcommittee direct the EPA to clean up and remove the contamination at EMF and direct the DOI to work with the EPA and the Tribes on this matter.***