

TESTIMONY OF MAULIAN DANA, AMBASSADOR, PENOBSCOT NATION

On behalf of the Penobscot Nation, I want to thank the leadership of the Subcommittee for continuing to hold these public witness hearings. While there are many issues that face the Penobscot Nation, my testimony today will focus on funding for the following programs within the Bureau of Indian Affairs: drug investigators, Tribal Courts, the Housing Improvement Program, and Scholarships & Adult Education; within the Indian Health Service budget: the Purchased/Referred Care program; and within the Environmental Protection Agency budget: the Wetlands Program, Brownfields Program, Section 105 of the Clean Air Act program, and Sections 106 and 319 of the Clean Water Act programs.

The Penobscot Nation has approximately 2,400 citizens and over 123,000 acres in land holdings, of which nearly 91,000 acres are held in trust by the United States. Within our land holdings are about 200 islands located within approximately 80 miles of the Penobscot River. Most of our land is undeveloped forest land, and Indian Island is our largest island and contains our seat of government and our largest housing community. We are a non-gaming tribe and rely on the federal government to meet its trust responsibility by providing us with federal funds for certain programs that we then use to leverage additional grant funding and economic development.

Impacts of the Maine Indian Claims Settlement Act: Many of the issues that the Penobscot Nation faces today are a result of what we believe to be unintended consequences of the Maine Indian Claims Settlement Act. This federal law was supposed to resolve longstanding land claims by tribal nations in Maine and provide a path forward for productive government-to-government relationships between the tribes and State. Instead, it has resulted in a legal maze whereby we find ourselves in constant litigation spending vital dollars defending our sovereignty and sustenance way of life rather than on critical programs to promote the health, welfare and safety of our citizens. Since passage of the Act in 1980, we have spent half of those years in litigation defending our rights against attacks by the State of Maine. I raise this issue with the Subcommittee because you have recognized the uniqueness of obstacles faced by tribal nations located in Public Law 83-280 states and have included language specific to them in your explanatory reports accompanying previous fiscal year appropriations bills. The Penobscot Nation respectfully requests that you consider including similar language for those tribal nations, such as ours, who face similar obstacles due to congressionally-approved settlement acts.

Continuing to Combat the Opioid Crisis. Opioid abuse continues to be our most urgent public health and safety risk. While the entire New England region and State of Maine is facing this epidemic, the problem is exacerbated within our small tribal community where many families are related and have lived for hundreds of years. Like other tribal communities we are trying to mitigate the impacts of intergenerational trauma, much of which was caused by failed past federal policies. We have made progress on this front over the past twenty years, but the current opioid and drug crisis is threatening to undo that progress. Two statistics have us deeply concerned: almost 80% of our child welfare cases within the past four years involved parental opioid abuse; and of the 160 plus households that were served by our Social Services programs in 2017, 42 are perceived by staff to have one or both parents with a substance abuse problem.

We have the expertise to combat this problem at the local level, but are not receiving adequate federal resources to assist our efforts. The Penobscot Nation has its own law enforcement and tribal court system. Our goals are to focus on getting to the source of the illicit drugs and get those tribal members with addiction problems into structured programs that will assist them in returning to being productive citizens. We run a successful medically-assisted Suboxone Treatment Program and Healing to Wellness Court. Our law enforcement officers are also trained to provide NARCAN to individuals suffering from opioid overdoses. Our Suboxone Treatment Program has treated over 200 individuals over the past few years. The Healing to Wellness Court has been our most successful tool to combat the opioid epidemic. It involves collaboration between ten tribal departments that work together to develop a holistic treatment and wellness plan for each participant. Participants are referred to the program through our criminal or juvenile justice system or through our child custody or abuse proceedings. The costs of these programs are substantially less than the cost of incarcerating people; and the long-term impacts of trauma within the family and community are significantly reduced.

We urge the Subcommittee to focus on these three issues as ways in which to provide much needed assistance to combat the opioid crisis:

- Ensure that the Bureau of Indian Affairs (BIA) puts drug investigators on the ground in tribal communities. We are happy that the FY2018 Omnibus Appropriations bill increased funding for drug investigators, who are key to prosecuting drug dealers and arresting and referring individuals with addiction issues to treatment programs. However, we are concerned that the increase in funding will not result in more drug investigators getting placed on the ground within tribal communities. Having a drug investigator based locally is critical for the Maine tribes. We need a drug investigator specifically designated to our tribal communities and that can work with the Maine State Drug Task Force. We cannot have someone who only comes to the Maine tribal communities on a periodic basis. The BIA region in which we are located currently only employs three drug investigators located in New York and North Carolina to provide drug investigative services for 26 tribes located from Maine to Florida and over to Louisiana.
- Increase funding for tribal courts that focus on drug crimes. Tribal courts are essential to our efforts to combat the opioid crisis. However, the FY2018 Omnibus Appropriations bill failed to provide any increase in funding for these courts. Our Healing to Wellness Court would not exist without our tribal court program and we need additional resources to keep this program working. We urge the Subcommittee to provide an increase in funding to those tribal courts that focus on drug crimes. Additionally, Congress has allowed the BIA to continue the Tiwahe initiative. If this initiative is working, we believe that more tribes should have access to it. Lastly, the FY2018 Omnibus Appropriations bill again included funding targeted towards tribes affected by Public Law 83-280. We ask that the Subcommittee include tribes, such as the Maine tribes, that are subject to congressionally-approved settlement acts in this funding as our tribal courts face similar obstacles of those in Public Law 280 States.
- Allow the BIA to provide tribal law enforcement with NARCAN. In FY2017-2018, our tribal health facility experienced difficulty in obtaining access to NARCAN. This was due to jurisdictional complexities between the tribe and State resulting from the Maine Indian Claims Settlement Act. When our tribal law enforcement reached out to the BIA's Office of Justice Services for assistance, we were informed that they could not provide

tribal law enforcement with NARCAN. Given the high rates of opioid abuse in Indian Country, we ask that the Committee ask BIA whether they have authority to provide NARCAN to tribal law enforcement entities.

Management of Natural Resources and Water. The Penobscot Nation directly manages our 123,000 acres of lands, including the approximately 200 islands within the Penobscot River, which is a critical natural resource for our Nation. Many of our tribal citizens continue to hunt moose, deer and bear and fish on a regular basis and rely on access to traditional plants for medicinal and cultural purposes. Given the importance of our natural resources to our daily living, we are constantly monitoring for potential contamination of our lands and water, and vigilant about cleaning up any contamination that occurs.

We get minimal funding from the BIA to manage our natural resources and water, and the BIA provides us no funding for wildlife or fisheries management. We currently have two full-time game wardens, but are in desperate need of a third game warden. We respectfully ask the Subcommittee to consider including language in its explanatory report for FY2019 language directing the BIA to look for mechanisms to fund additional game wardens for tribal nations that rely on sustenance hunting rights.

Because we receive such little funding from the BIA, we are forced to apply for competitive grant monies at the Environmental Protection Agency (EPA). A substantial portion of the federal money we receive to manage our natural resources and water comes from the EPA. Thus, any cuts to EPA funding would dramatically impact our Nation. While these EPA monies are critical to our ability to manage and protect our resources, the funding is unreliable because it is competitive and only lasts one to two fiscal years. This makes it hard for us to hire and retain good professional staff. We just lost an excellent wildlife biologist because we do not have secure funding that covers multiple funding years. We encourage the Subcommittee to consider including set-asides within EPA programs for tribal governments or directing the EPA to offer more multi-year grants for tribal governments.

The Penobscot Nation relies on the following programs at the EPA:

- Section 106 Clean Water Act, Water Quality Monitoring Program: The Penobscot Nation is responsible for monitoring the water quality of the 80 miles of the Penobscot River within our jurisdiction. We share the data collected with the State so that they can ensure compliance with the Clean Water Act.
- Section 319 Clean Water Act Program: Funding from this program allows us to prevent and reduce non-source point runoff contamination within the portion of the Penobscot River that runs through our territory. This includes runoff from agriculture, road construction, and erosion of the river bank.
- Section 105 Clean Air Act, Air Quality Program: Funding from this program allows us to monitor indoor and outdoor air quality within our territory. Our outdoor monitoring focuses on airborne mercury, particulate matter, and acid precipitation with three monitoring stations within our territory. Our indoor monitoring focuses on mold and radon, with indoor mold contamination being our biggest problem in our climate.
- Brownfields Program: Funding from this program is used to conduct environmental assessments and clean up slightly contaminated properties that can then be

redeveloped. We work closely with our economic development department when cleaning up these lands in order to identify any business purpose when redeveloping the lands. In FY2019, we hope to do a remediation plan for a parcel of land owned in fee status by the Nation that was previously used to manufacture automotive parts.

- **Wetland Program:** Funding from this program is used to plan and develop wetlands on our territory, with the main focus being on planning so far. Wetlands are a primary source of medicinal plants and wildlife habitat, which is important habitat for moose and deer that are important for sustenance of our tribal members

BIA Housing Improvement Program (HIP). This program located within the BIA is critical to the Penobscot Nation as it supplements the limited federal funding for housing that we receive from the U.S. Department of Housing and Urban Development (HUD). The President's budget request recommends eliminating this program because it is viewed as duplicative of the HUD programs, but it is not. We are viewed as a small tribe and per HUD's funding methodology we do not receive much funding from HUD. The HIP program allows us additional funding to focus on the poorest and neediest people in our community. The program is more flexible than that at HUD. We use these funds primarily for repairing roofs and siding of existing homes, and in some cases we have combined these funds with other federal non-HUD funds to perform major renovations. We do not receive much funding from this program, but the funding that we do receive is immensely important to those tribal citizens living in our cold and wet climate. The BIA is very efficient at administering these funds to need-justified projects. We urge the Subcommittee to continue funding this vital program.

BIA Adult Education & Scholarships. As a non-gaming tribal nation, the Penobscot Nation focuses our efforts on getting our citizens educated. Education is our best chance for economic development. We use the limited federal funding we receive to provide some assistance to every tribal citizen who is attending an educational or vocational institution. This is mostly in the form of helping to pay for books, but also includes tuition assistance. The limited funding we received from the BIA in FY2017 allowed us to provide some assistance to 59 students who are attending four-year programs and 45 students who are attending two-year or vocational programs. These students appreciate any assistance. Our goal is to get as many of our citizens educated in some type of vocation or profession so as to minimize their need for government services and increase their ability to contribute to our community's economy. We ask that the Subcommittee provide some type of increase in this program for FY2019.

Indian Health Services. I want to thank the Committee for increasing the amount of funding for Purchased/Referred Care in the Omnibus Appropriations bill for FY2018. That program has become critical to providing our citizens with health care. Cancer and opioid abuse are becoming the leading causes of death amongst our people. I am not aware of any family that is not being impacted by these two dangers. Our health facility mainly provides primary care and we contract with local non-tribal facilities to provide the secondary care required for cancer treatment. This is expensive, and we are reliant on the Purchased/Referred Care program for covering these costs. Additionally, our clinic provides Suboxone for those addicted to opioids, and this is a costly treatment. Our unmet need for FY2018 is expected to be around \$100,000, which is lower than FY2017 but still significant. We urge the Subcommittee to again consider increasing funding for FY2019 given the current unmet needs of Indian Country.