

**Ladd Edmo, Chairman, Fort Hall Business Council, Shoshone-Bannock Tribes
House Interior and Related Agencies Appropriations Subcommittee (2/11/2020)**

My name is Ladd Edmo. I serve as Chairman of the Fort Hall Business Council, the governing body of the Shoshone-Bannock Tribes (Tribes) of the Fort Hall Reservation (Reservation), located in southeastern Idaho. Thank you for inviting me to offer testimony to your Subcommittee. My testimony focuses on the following: (1) the need for EPA to require cleanup of the Eastern Michaud Flats (EMF) Superfund Site; (2) the need for strategic planning for reclamation and remediation of the Gay Mine Superfund Site; (3) the need for advance appropriations for tribal programs; (4) our opposition to the National Park Service's (NPS) proposed regulatory changes to the National Historic Preservation Act (NHPA); (5) our concerns with the Council of Environmental Quality's (CEQ) proposed changes to the NEPA process; (6) the need for adult and youth transitional housing; (7) the need for BIE competitive salaries for teachers; (8) the BIA Road Maintenance Program funding needs; and (9) addressing the long-standing and pressing infrastructure needs on the Reservation.

The Tribes and the U.S. signed the Fort Bridger Treaty of 1868 (Treaty), and the Senate ratified the Treaty on February 16, 1869. Under the Treaty, the Tribes agreed to settle on the Reservation as our "permanent home." However, the Tribes reserved the following off reservation rights: "the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts." Subsequent to the Treaty, the Tribes ceded hundreds of thousands of acres to the U.S. to facilitate settlement of large portions of the Reservation in a series of cession agreements; however, the Tribes expressly reserved specific usufructuary rights for lands remaining in the public domain, including retained priority rights to hunt, fish, gather, graze, and cut timber for personal use.

The Tribes deeply appreciate the Subcommittee's bipartisan efforts to protect and increase funding for essential programs for tribes so that the federal government can better meet its treaty and trust obligations. We extend special thanks to Rep. Mike Simpson, the Tribes' Representative, for his long-standing efforts on the Appropriations Committee to improve funding for tribal programs and for his friendship with the Shoshone-Bannock people. For FY21, we respectfully request that the Subcommittee consider continuing increases in funding for critical tribal programs to make up for the severe chronic underfunding and to address the staggering backlog of deferred maintenance and unmet tribal needs. While the Administration has not released its FY21 budget request as of this date, the Tribes are concerned that the Administration will again propose significant cuts to programs upon which tribes rely, especially construction funding and other funding for the EPA.

Need to Clean Up Eastern Michaud Flats Superfund Site on Reservation

The J.R. Simplot Company (Simplot) is a large phosphate fertilizer manufacturing company, and the FMC Corporation was the nation's largest elemental phosphorus production facility but is now defunct. For almost 70 years, the health, environment, and safety of Tribal Members have been subjected to toxic contamination caused by Simplot and FMC from their mining and processing of phosphates on the Reservation and on our ceded lands for many decades. Simplot continues to process phosphates at its Pocatello Don Plant, which is located adjacent to the Reservation on our ceded lands. Since 1976, evidence of contaminated surface and ground water have been detected downriver of the Don Plant and FMC with tests confirming soil and water contamination back

then. In all, 2,530 acres of land surrounding the plants were found to have “contamination levels of concern.” The findings above culminated in EPA’s designation of the area in 1990 as the Eastern Michaud Flats (EMF) Superfund Site and its listing on EPA’s National Priority List. The EMF Site is a continuing source of chemical and radioactive contamination, introducing dangerous airborne, surface, and groundwater contamination into our ecosystem. Contaminants from the site move off the private property boundary via groundwater and air and enter the Reservation, impacting our health, our land, and water resources. The Tribes have fought for decades to require Simplot and FMC to clean up their Superfund site on and next to the Reservation. They have contaminated our lands and watersheds to the point that we cannot eat the fish we catch or swim in our streams and lakes. Simplot and FMC still have not cleaned up the EMF site. Recently it has been proven that the EMF site continues to contaminate our deep and shallow aquifers. The Tribe developed air and water quality standards in conjunction with EPA, and public involvement will be conducted this year. Due to fluoride and water contamination, it is imperative that EPA approve the Tribe’s proposed standards and begin implementation. A third party, the Idaho National Laboratory, evaluated the Site and determined there are treatment options for the waste material buried. Recently FMC, whose facility was completely located within the Reservation boundaries, initiated excavation, drum removal, and shipment of their waste off-site even though it had claimed for years that it was too dangerous to handle. *We respectfully request the Subcommittee’s assistance in working with the EPA to require actual cleanup at the EMF Site. We further request that the Subcommittee fund a pilot project for cleaning up this Site.*

Strategic Planning for Reclamation and Remediation of the Gay Mine Superfund Site

The J.R. Simplot Gay Mine is located on the Reservation. The Gay Mine closed in 1993 and reclamation activities were supposed to commence under BLM and BIA’s oversight. In 2010 the U.S. EPA entered into a Unilateral Agreement Order (UAO) with Simplot and the FMC Corporation to conduct a remedial investigation and feasibility study under the CERCLA process. Despite these efforts, there has been very little progress. Although it has been 25 years since the closure of the mine, the soil, vegetation and water is contaminated by arsenic, barium, boron, cadmium, chromium, lead, mercury, selenium, thallium, uranium, and other metals and compounds, causing significant health risks to tribal members. The Tribes remain concerned about these contaminants leaching into our water. Additionally, there are 158 pits, ranging in size from 15-20 acres, many with high walls that reach more than 50 feet; and, there are 57 million shale piles with over 30 million tons of overburden. The dangerous highwalls of the pits must be leveled out given the serious safety risks they pose.

The Tribes seek a long-term strategic reclamation plan for the entire Gay Mine area. As part of this effort, a process is needed to inventory the area; include input from the community members, allotted landowners and Tribal user groups (cattle owners and hunters); assess potential development opportunities; develop conceptual models on redevelopment; and act on feasible options. The Tribes believe this can benefit human health and safety, wildlife habitat, cultural preservation, and support of multiple uses of the area. Since CERCLA and reclamation efforts are often done independent of each other, the Tribes believe that investigating the entire Gay Mine area allows for the remediation investigation to continue unimpeded and maximizes the benefits of ongoing data gathering activities at the Gay Mine area. In the past year, we have utilized innovative research methods, using drone studies and are working with Simplot to identify cost-effective strategies at the Gay Mine. We appreciate Rep. Simpson’s efforts to bring Simplot, the

federal agencies, and the Tribes together to work on these issues. However, we still need to identify a funding mechanism to undertake this effort. *We respectfully request the Subcommittee's assistance in working with the EPA, BIA, and BLM to enable the Tribes to undertake a strategic study to develop a long-term reclamation plan for the Gay Mine area.*

Advance Appropriations for Tribal Programs

The federal government has treaty and trust responsibilities to tribes to protect tribal lands and provide critical services. However, last year's "shutdown" severely impacted the federal government's ability to uphold its responsibilities. The furlough of BIA and IHS employees greatly impacted services for our tribal members, causing long delays and financial strains felt Reservation-wide. Although the Tribes had prepared for the possibility of a government shutdown, as the shutdown went on, the Tribes were forced to reduce hours for tribal employees and reduce services for our community. In response to this situation, our community banded together to support those most suffering from the effects of the shutdown, which underscored the continuity and strength of our people and our culture. In addition, the repeated use of Continuing Resolutions (CR) to fund the government has created significant problems for our tribal programs' ability to plan and maintain continuity of services, including retaining staff. Advance appropriations for health care services and the operation of essential BIA programs would enable tribes to provide increased stability and result in the provision of better services and more efficient programs. *We respectfully request that the Subcommittee support advance appropriations for tribal programs.*

Opposition to NPS's Proposed Regulatory Changes to NHPA

The Tribes are very appreciative of the Subcommittee's inclusion of language in the FY20 House Interior Appropriations Report (H.Rept 116-100) urging NPS to withdraw its proposed regulations regarding how properties on federal lands can be listed or determined eligible for inclusion on the National Register of Historic Places (NRHP) and expressing the Subcommittee's concerns over the lack of meaningful consultations with tribes. Unfortunately, NPS still has not withdrawn its proposed rule nor have they conducted adequate tribal consultations to address the serious concerns that tribes have with the proposed regulations. *We request that the Subcommittee require NPS to conduct full and meaningful tribal consultations on its proposed rule prior to any further NPS/Department of the Interior action on it.*

Concerns With CEQ's Proposed Changes to NEPA

The Tribes are alarmed at CEQ's proposed changes to NEPA regulations to "modernize and accelerate" the NEPA process. The intent of NEPA is to fully consider the environmental impacts of proposed federal actions that may significantly impact the quality of the human environment. It is necessary to have a broad range of environmental analysis, public involvement and necessary studies to determine direct, indirect and cumulative impacts. The Tribes rely upon the full range of analysis to determine impacts and mitigation for natural and cultural resources of the Tribes and CEQ's proposed changes would prevent a full transparent review of federal projects. *We request that the Subcommittee require CEQ to conduct full and meaningful tribal consultations on its proposed changes prior to any further CEQ action on it.*

Need for Adult and Youth Transitional Housing

The complicated situation surrounding substance abuse on the Reservation is reflected in high rates of domestic violence, alcohol, meth and opioid abuse. Using various strategies, the Tribes have offered services, such as treatment, recovery, job training, and specific services for victims. To

prevent recidivism, the Reservation is in need of transitional safe and sober housing for those who successfully complete treatment programs. As identified in the Tribes' Comprehensive Tribal Justice Systems Strategic Plan of 2018, without safe, affordable housing adults and youth who are newly released and on probation have little chance for sustained sobriety. ***We respectfully request the Subcommittee's assistance in working with IHS to develop a long-term solution for transitional safe and sober housing on the Reservation.***

Need for BIE Competitive Salaries for Teachers

The Tribes are deeply concerned about providing competitive salaries for teachers at the Shoshone-Bannock Jr./Sr. High School (School), a BIE school on the Reservation. The current funding levels prevent providing competitive salaries for current and new qualified teachers. In this school year, entry level wages for a certified teacher at the School are \$32,385 as compared to \$42,500 for entry level teachers in Idaho and in the surrounding schools. Several teacher positions remain unfilled due to low wages, including the high school math teacher. Using Idaho's guidelines for teacher salaries would cost an additional \$145,000. Further, there is a significant need to provide technology training to help prepare students for trades upon high school graduation, but the School does not have a full-time Career/Technology teacher. Providing this type of training would increase the graduation rate and help more students be college and career ready, but neither a teacher nor funding (\$75,000) was secured for this school year. The School also has an urgent need for a full time on-site counselor (\$75,000) to assist the 131 enrolled students with various behavioral issues, including suicide and trauma. ***We urge the Subcommittee to increase funding for teacher salaries to enable the School to be competitive with non-BIE schools.***

BIA Indian Reservation Roads Program funding needs

The Tribes' BIA Road Maintenance Program has been unable to keep up with regular road maintenance due to insufficient funding. Without an increase of maintenance funding, the life of the Tribes' transportation facilities will be drastically shortened. The lack of funding increases the public safety risks for highway fatalities and serious injuries. The Tribes have extensive farm-to-market roads, and over 420 miles of paved roads, a number that is decreasing because we have had to resort to turning paved road failures into 12.5 miles of gravel roads due to a lack of resources. ***The Tribes request an increase in the BIA Road Maintenance Program to allow the Tribes to repair spring road damage, striping and chip sealing.***

Long Term Infrastructure Needs on the Reservation

The Reservation is in great need of resources to achieve prosperity in the 21st century. We lack adequate utility systems, roads, housing, community facilities, broadband, and economic development, which hinders our efforts to strengthen our community. Over the decades, we have made piecemeal repairs to water and electrical lines, but we have gotten to the point that we can no longer band-aid our utility lines and they need total replacement. The Tribes have been working in collaboration with the Economic Development Administration since 2019 to integrate a comprehensive economic development plan to modernize the Reservation's infrastructure. Also, with a fully functioning CDFI, we have launched over \$150,000 in community loans on the Reservation, helping to increase stability and economic development. ***The Tribes request increased funding for all infrastructure programs for Indian Country and further request tribal set asides for tax credits and CDFI funding.***