

Testimony of Charlene Nelson, Chairwoman, Shoalwater Bay Indian Tribe
“Public Witness Testimony: FY 2024 Appropriations”
House Appropriations Subcommittee on Interior, Environment, and Related Agencies
March 9, 2023

Recommendations:

1. Provide increased funding for climate change mitigation efforts, including community-driven relocation, programs in FY 2024.
2. Work with others in Congress and the Administration to facilitate the mandatory trust acquisition of fee lands where a tribe is undergoing forced relocation due to climate change and other threats.
3. Create funding opportunities for tribal and intergovernmental infrastructure agreements between federal, state, local and tribal governments.
4. Support full, mandatory, and continued advance appropriations for the IHS.
5. Fully fund critical infrastructure investments for the Indian health system.
6. Support mandatory funding for Contract Support Costs and 105(I) leases.

Thank you, Chairman Simpson, Ranking Member Pingree, and Members of the Subcommittee, for the opportunity to share our funding priorities for the FY 2024 federal budget. My name is Charlene Nelson, and I am the Chairwoman of the Shoalwater Bay Indian Tribe. We are located 2,800 miles west-by-northwest of Washington, D.C., on the beautiful north shore of Willapa Bay on the Pacific Ocean. Like most coastal tribes, we are stewards of the great ocean.

As the Chairwoman of the Tribe, and in my former career as an educator and commercial fisherman, I have learned firsthand that vibrant and successful tribal communities are not possible without first attending to the human health of the community members and ensuring the health of the environment. I appreciate that this Subcommittee is responsible for those same priorities, and it is in that shared spirit of community responsibility that I speak to you today. The following testimony provides information about our community’s urgent need to relocate due to the ongoing climate crisis, and the need for additional funding to support tribal climate resiliency programs. This testimony also outlines priorities for the FY 2024 Indian Health Service (IHS) budget.

Like many tribal communities, we are feeling the ever-increasing impacts of climate change on our environment. Threats such as flooding, erosion, ocean acidification, increased wildfires, extended drought, and changes in seasons all pose serious challenges for Tribal Nations. We must mitigate and adapt, but we need additional support—and we need it urgently.

We have been encouraged by the Subcommittee’s commitment in its committee reports to addressing the negative impacts of climate change in tribal communities. For example, we were pleased to see language in House Report 117-400 that recognized “the urgency and severity of the situation” faced by tribes requiring full or partial relocation due to “risks related to flooding, erosion, sea level rise, and tsunami threats impacting human health and safety, infrastructure integrity, and quality of life.” We also appreciate the continued funding for Tribal Climate Resilience in the Bureau of Indian Affairs budget, which includes funding for tribal relocation grants. While these opportunities are valuable, they are also limited. The problems tribal communities are facing due to climate change are immense and will require substantial investments to overcome. We therefore urge the Subcommittee to support significantly increased funding for climate change resilience and mitigation in FY 2024.

Shoalwater Bay Indian Tribe and Climate Change

Tribal communities are on the front lines of climate issues because, unlike many others in our society, we are rooted to our ancestral homelands. If things change due to climate instability—flooding, habitat loss, diminished drinking water, incapacity to engage in subsistence activities—we have nowhere else to go. That is both a challenge, and an opportunity. For the Shoalwater Bay Indian Tribe, the threats are real; we face them every day. But we see the opportunity to now build our community with long-term resilience.

As a Pacific Northwest coastal Tribe, all our housing and government buildings are just 15 feet above sea level. Partial federal funding, and a tribal relationship with the Army Corps of Engineers, enabled the construction of an embankment in the tidal zone portion of our Reservation and adjoining lands, but it was constructed using native sand and earthen materials that are now washing away. Our Reservation will soon be gone as the erosion continues, and yet we are told that with the varying weather patterns and tidal effects due to climate change our community is in even more urgent danger. A single tsunami event would take out our homes, our government, our economic development opportunities, and what defines us as Shoalwater people.

We need to move to higher ground to survive as a Tribe. Fortunately, some of the land adjacent to our Reservation is suitable for this. Using Tribal funding, we have purchased 1,200 acres of land at 250 feet above sea level for the relocation of our Tribal village. However, this is raw land where there are only dirt roads. We have committed much of our time and financial resources to meet these exigent needs, tapping out our only reserves to plan and prepare for the relocation effort to keep our people alive. But we need financial and technical support to build the infrastructure necessary to move uphill. Congress has recognized the federal trust responsibility and come through with funding for other coastal tribes in our region facing similar circumstances. Based on erosion rates and climate projections, we need Congressional assistance immediately.

This support will not just impact our Tribal community, but will also support the local communities in Pacific and Grays Harbor Counties, which have some of the highest poverty rates in the state. Our Tribe is now one of the biggest employers in the area, and many of the current key roads are merely a few feet above sea level. Support for our Tribe means support for the entire area, and a new road system will be a resilient and necessary coastal connection for the region. The Tribe has formal support for this project from the Pacific Board of County Commissioners, the Economic Development Council of Pacific County, and the Tokeland-North Cove Chamber of Commerce. This is an investment that will generate far-reaching returns.

I urge the Subcommittee to consider the federal trust responsibility to Tribal Nations and pledge that if and when there are tribal climate refugees—dispossessed of their lands and waters by climate change—Congress will use its plenary power over Indian affairs to rebuild ancestral homelands. Our Tribe can be a test case, establishing how tribal and federal resources can relocate a tribal community to a new, more resilient location.

Funding & Mandatory Trust Acquisition of Fee Lands for Climate-Related Relocation

For our current relocation efforts, will need federal funding for road replacement, utilities, three essential government buildings, and 80 homes. In total, we believe this project will cost about \$120 million: \$70 million for roads and utilities, \$17 million for government buildings, and \$33 million for homes.

Last year, we were allocated \$2.7 million in congressionally directed spending for planning and design of the water and sewer infrastructure that will serve the new community we must build. However, it has been difficult to access these funds and we will require more dollars for the actual construction. We are receiving about \$1.6 million of this amount from IHS, but IHS is unable to fund the remaining \$1.1 million due to significant use restrictions on IHS funds. We need another agency to allocate the remaining dollars, through IHS, so we can move forward on this critical project. Additionally, we will need an estimated \$20 million for construction once the planning phase is complete. These funds also should be allocated by other federal agencies, through IHS, to ensure they can be put to use.

But we do not just need funding. Our Tribe does not have the land base to support us indefinitely; we will still need to acquire additional land to survive. We urge you to work with your colleagues in Congress and the Administration to facilitate the mandatory trust acquisition of fee lands where a tribe is undergoing relocation due to climate-related threats. Tribes should not have to go through a lengthy and expensive fee-to-trust process for relocation land acquisition, which by definition will be an off-reservation acquisition for most tribes.

We also ask that you support legislation and funding opportunities for infrastructure agreements between federal, state, local, and tribal governments to facilitate the changes needed to help our communities survive. The Department of Transportation, for example, will often not release emergency funding for road infrastructure until an existing road completely fails. If that occurs with State Route 105, which runs through our Reservation, it will cut the Tribe off from its schools, banks, closest groceries, and many of its employees from their homes. Congress can change these rules to allow for substantial road replacement funding in advance of an existing route becoming impassable. Any funding of this nature should be non-competitive and provided directly to tribal governments without matching fund requirements.

Beyond the measures outlined above, we urge Congress to create a program specifically designed for tribal climate-related relocation. The Government Accountability Office has noted that “no federal agency has the authority to lead federal assistance for climate migration” and this “[u]ncler federal leadership is the key challenge to climate migration as a resilience strategy.”¹ As a result, our small Tribal community has been forced to cobble together various resources for our own relocation project. This is a long, resource-intensive process involving various funding sources with differing purposes, reporting requirements, and periods of availability. Managing this unnecessarily complex process requires large amounts of time and resources that we simply do not have. A federal program designed for this purpose would allow more expeditious and efficient relocation efforts for tribal communities like ours, enabling us to carry out our plans with the urgency they demand.

The cost of us not finding the support to relocate our village is the highest cost any community can pay—sea level rise will mean the annihilation of our Tribal community. The more days that go by, the closer our community is to vanishing off the coast. Even if we physically survive as individuals by relocating off traditional lands, it will mean the erasure of our Tribal culture. The failure to dedicate adequate resources to these efforts is tantamount to being complicit in the disappearance of our lands, our people, and our way of life.

¹ Gov’t Accountability Off., GAO-20-488, A Climate Migration Pilot Program Could Enhance the Nation’s Resilience and Reduce Federal Fiscal Exposure (July 2020), <https://www.gao.gov/products/gao-20-488>.

Indian Health Service Priorities

In addition to critical climate change needs, we also would like to express strong support for increasing the IHS budget. We sincerely appreciate the work done, on a bipartisan basis, to provide funding increases for IHS year after year, and advance appropriations for the first time last year. However, Congress must do more to fully honor its trust and treaty obligations to Tribal Nations and address the true needs of the Indian health system. The IHS Tribal Budget Workgroup calculates this need at \$51.4 billion.² We support fully funding this amount in FY 2024.

Support Full, Mandatory, and Continued Advance Appropriations: We appreciate the Subcommittee's words in House Report 117-400, accompanying the FY 2023 Consolidated Appropriations Act (CAA) (Pub. Law No. 117-328), which acknowledged the Administration's proposal to provide mandatory funding for IHS in FY 2023. The federal trust responsibility for health is a mandatory obligation and should be treated as such. We encourage the Subcommittee to advocate with your colleagues, on a bipartisan basis, to move IHS to full, mandatory funding for FY 2024 and beyond.

However, if full, mandatory appropriations cannot be achieved for FY 2024, we continue to support IHS advance appropriations in the short term. We greatly appreciate the historic, first-time inclusion of advance appropriations for IHS in the FY 2023 CAA, and we ask the Subcommittee to continue support for advance appropriations going forward.

Fully Fund Critical Infrastructure Investments: Significant investments in tribal health facilities construction must be a priority. With an average age of 40 years, IHS and tribal facilities are some of the oldest in the nation. Many are outdated and/or have insufficient capacity to effectively serve their patients. Consistent with the Budget Formulation Workgroup's estimates, we recommend at least \$9.6 billion for Health Care Facility Construction and associated costs.

Support Mandatory Funding for Contract Support Costs (CSC) and 105(l) Leases: If Congress cannot enact full mandatory funding for IHS this year, we continue to support mandatory funding for CSC and 105(l) leases. We appreciate the Subcommittee's words regarding CSC and 105(l) costs in House Report 117-400, which acknowledged that "obligations of this nature are typically addressed through mandatory spending" and that failing to do so impacts all other programs funded under this Subcommittee. We also appreciate the Subcommittee's direction to IHS and others "to formulate long-term accounting, budget, and legislative strategies to address this situation, including discussions reclassifying these funds as an appropriated entitlement." We ask you to continue to advocate with your colleagues on authorizing committees to enact mandatory appropriations for CSC and 105(l) lease costs for FY 2024 and future years.

Conclusion

I want to thank you for your time and attention, and I invite you to come visit us at Shoalwater. Our doors are open and we look forward to sharing with you our continued strength and resilience as a sovereign Tribal Nation.

² Full recommendations are available here: <https://www.nihb.org/docs/09072022/FY%202024%20Tribal%20Budget%20Formulation%20Workgroup%20Recommendations.pdf>.