

**Ambassador Maulian Bryant, Penobscot Nation**

Appropriations Subcommittee on Interior, Environment & Related Agencies

May 7, 2024

Thank you, Chairman Simpson, Ranking Member Pingree and Members of the Subcommittee for allowing me to testify on the fiscal year 2025 appropriations for the Interior, Environment and Related Agencies. Although the Penobscot Nation and all of Indian Country continue to suffer from consistent funding shortfalls in the tribal programs within the Interior Department, Environmental Protection Agency and Indian Health Services, my testimony today will focus on funding for Tribal courts and law enforcement (including game wardens) within the Interior Department's budget, and on funding for specific programs within the Environmental Protection Agency that we utilize to protect our people, lands, wildlife, forest and water.

The Penobscot Nation has approximately 2,400 citizens and over 123,000 acres in land holdings. Although our lands historically covered much of what is now the State of Maine, our land holdings became scattered after enactment of a land claim settlement between us, Maine and the federal government in 1980. Our various territories can be a three-hour drive from each other. Additionally, our land base includes about 200 islands located within approximately 80 miles of the Penobscot River. Most of our land is undeveloped forest land and our seat of government and largest housing community are located on our largest island, called Indian Island. We have limited economic resources 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 for additional competitive grant funding.

We understand that the Interior, Environment and Related Agencies Appropriations bill has one of the smaller dollar allocations each year, but we provide this testimony to remind Congress that this appropriations bill is the fundamental bill that fulfills the bulk of the federal government's trust responsibility to Tribal Nations. Additionally, while most of the programs funded by this bill are viewed as focusing on lands and resources, these programs are critical to Native people and our continued survival. So, the bill is more than trees and animals; it funds direct services to Native people and protects our food and water sources.

The 1980 settlement act previously referenced requires the Interior Department to provide the Penobscot Nation with any funds through the use of a self-governance compact pursuant to the Indian Self-Determination and Education Assistance Act. Thus, unlike other Tribal Nations, our participation in self-governance is not voluntary but was mandated by Congress. We cannot retrocede our Bureau of Indian Affairs programs back to the Interior Department if we feel that the shortfall in funding makes us incapable of properly operating a program. This is different from most Tribal Nations in the country. It also means that we rely on the funding for *Tribal Priority Allocations* within the *Operation of Indian Programs* portion of the Interior budget.

**Funding for Law Enforcement and Tribal Courts within the Interior Department Budget.**

There are three components to our Tribal justice system at the Penobscot Nation. We have our police department, which is the primary source of policing our lands where the bulk of our people live. We also have our game wardens, who are located in our Natural Resources

Department versus our Police Department, and primarily patrol our undeveloped lands that we primarily use for our hunting, fishing and gathering. However, our game wardens are often the first responders to any activities that occur on our undeveloped lands, which are located a distance from our government headquarters. Lastly, we have our Tribal court, which is responsible for prosecuting crimes and overseeing civil actions, but also for overseeing our Healing to Wellness Court, which focuses on helping people overcome their life obstacles and become productive parts of our community and their family.

All three components of our justice system are severally underfunded. And everyone knows it. Tribal and Federal governments know it, but so do the criminals, drug dealers and our citizens. The well-known shortfall in funding creates an incentive for criminals to commit crimes, but it is also demoralizing for our employees and citizens.

Our police department survives because our Chief of Police has worked for us for 24 years and has become adept at triaging funds and applying for and obtaining competitive grant funding to supplement our Interior Department funds. However, excluding our Chief of Police, our other police officers have been with the Tribe approximately 2.5 years. So, we worry about the loss of institutional knowledge that will occur when our Chief of Police retires soon.

Our biggest obstacle in our police department right now is our inability to compete with state and local police departments to recruit, hire and retain cops. Because of limited funding, we are only able to offer 25% of what the state and local cities offer as a base salary for their cops. And we cannot offer any hiring or retention bonuses. Additionally, our cops must work until 65 years of age before they can retire, while the state and local governments can offer retirement based on number of years on duty rather than age. We consistently have two positions open in our police department and we rarely get applicants for those positions. When we finally get a qualified applicant and train them, they don't stay long because they quickly get recruited to a better paying job with lower hours and retirement benefits. Vacancies result in our existing officers having to work over 40 hours a week with no vacation time, which affects the wellness of our officers.

The same is true of our Wildlife Resource Officers/Game Wardens where we consistently have one-third of our positions vacant because we cannot recruit and retain qualified personnel. Our last game warden left after 1.5 years to another job that offered a signing bonus and early retirement. We are growing more concerned about shortages in our game wardens given the increased activities of Chinese drug cartels developing a sprawling network of unlicensed, illicit cannabis growing operations in rural Maine. Last year, the U.S. Department of Homeland Security found that almost one-third of the properties actively used by these Chinese drug cartels in the U.S. are in rural Maine.

This chronic shortage in funding for law enforcement also impacts our Tribal Court system. Like other Tribal Nations, we continue to see a rise in the use of illicit opioids and fentanyl, and it impacts every aspect of our community. Our police department regularly responds to drug overdose situations, and our police officers are trained to provide NARCAN to individuals. Of the more than 100 cases our Tribal Court handles each year, the vast majority of them involve

some kind of opioid, fentanyl or substance abuse problem. Almost 80% of our child welfare cases involve parental opioid abuse, and almost half of the households that our Social Services program serves are perceived by staff to have one or both parents with a substance abuse problem. We operate an award-winning Healing to Wellness Court and a successful medically assisted Suboxone Treatment program. We make significant progress for those who participate in these programs, but we do not have the capacity to serve everyone due to a lack of funding.

Our full-time court operates on a part-time budget. In addition to performing their daily duties, our court personnel are constantly monitoring and applying for competitive grant funding to make up for the shortfall in funding we receive from the Interior Department. Our court is certified to handle criminal cases pursuant to the Violence Against Women Act, which allows us to apply for competitive grant funding at the Department of Justice. But our court system continues to have an annual budget shortfall of approximately \$650,000 of what we believe we need to adequately perform our functions.

We ask the Committee to increase funding for **Tribal Priority Allocations** to specifically address funding for **Tribal Courts** and **Tribal Law Enforcement Compensation**. We also ask that the Committee include “Tribal governments subject to restrictive settlement acts” in the ***Tribal Justice Support*** portion of its report that specifies Tribes affected by Public Law 83-280. Several Tribal Nations in the Eastern United States are subject to restrictive settlement acts that are like Public Law 83-280, and we want to make sure we are covered by this provision of the Committee’s report. We also ask that the Committee increase funding for the **Tiwahe Program** and direct BIA to expand the number of Tribal Nations who can participate in the program. The Penobscot Nation has been patiently waiting to participate in this program for numerous years and has been considered an incubator Tribe for the past couple of years. We are ready to be in the **Tiwahe Program**. Lastly, we ask that the Committee increase funding for the **Conservation Law Enforcement Officer Program, Wildlife Management and Natural Resources Law Enforcement Programs** to specifically help fund additional game wardens.

**Environmental Protection Agency Programs.** The Penobscot Nation is a sustenance Tribe, which means that our people continue to rely on hunting and fishing to obtain the food necessary for our daily sustenance. Many of our tribal citizens continue to hunt moose, deer, bear and fish on a regular basis and rely on access to traditional plants for medicinal and cultural purposes. Any extra meat and plants are donated to our elder pantry to assist in providing food for our elderly who may not be able to hunt, fish and gather at the same level during their younger years. Having access to these traditional foods cuts down on the costs of commercial groceries significantly, but it also reduces health disparities such as Type II Diabetes among our people. Given the importance of our land, wildlife, forestry and water to our daily living, the Penobscot Nation’s Department of Natural Resources runs several programs focused on management and protection of these resources.

There are numerous programs that we consistently apply for and receive funding from at the EPA, but my testimony today will focus on the three programs we primarily rely on for funding and ask that the Committee increase funding for them. Additionally, we ask that the Committee include language in its report for fiscal year 2025 appropriations **directing the EPA to follow**

**the directives in Section 5 of Executive Order 14112, *Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*.** Section 5(a)(ii) of E.O. 14112 directs agency heads to “identify funding programs that may allow for Tribal set-asides or other similar resource or benefits prioritization measures and, where appropriate, establish Tribal set-asides or prioritization measures that meet the needs of Tribal Nations.” We ask the Committee to **direct EPA to identify and create tribal set-asides** in all State and Tribal Assistance Grant programs, including programs funded by the Infrastructure Investment and Jobs Act.

Within the *State and Tribal Assistance Grants* portion of the EPA funding bill, the Penobscot Nation relies on **Section 319 Nonpoint Source** (base funding and competitive grants) and **Section 106 Pollution Control** categorical grants. We also rely on funding from the **Indian Environmental General Assistance Program**. Utilizing the EPA’s Performance Partnership Grants, we can combine the funding we receive from each of these programs into one 3-year grant that allows us to comingle the funds and streamline the application process and administration of these funds. This cuts down on the bureaucracy of us having to manage 3 separate grants and it also provides us with more flexibility in how we can use the funds to meet our needs. We ask the Committee to **increase funding for all three programs**.

We use the funds from these three EPA programs to protect our waters and lands. We conduct small-scale projects aimed at preventing erosion and soil/sediments/nutrients from entering water streams located on our lands. This includes projects such as installing culverts and ditching, small bridges, flow devices to prevent beavers from damming culverts and washing out roads, flexible stormwater diverters, and planting riparian vegetation. We also use the funds to monitor activities taking place off our lands but close enough that they can impact our lands and waters. This includes monitoring local municipal highway crews and educating them on how to properly size and install culverts and ditches and teaching them other practices to protect nonpoint source pollution from entering the Penobscot watershed. We also use the funding to conduct water quality monitoring, which includes purchasing equipment and supplies for field and laboratory work and analysis. We share this data with the state and EPA, which is included in reports to Congress, and is also used to update state water quality standards. The funding also supports our ability to regularly monitor, review and provide comments on local permits pertaining to discharges, hydropower relicensing, mining, powerlines, wind power, and road developments. The funding also helps us study contaminants in wild foods used by our people and allows us to develop health consumption advisories.

When we receive competitive Section 319 funding, we focus that funding on larger projects such as riverbank stabilization, lake shoreline stabilization, bridge/stream crossings, replacing eroding boat landings, and rebuilding failing roads on our lands. Since much of our land is undeveloped, traversing it requires all terrain vehicles, so it is important that we install bridges to keep the ATVs out of streams, ponds and rivers and install water bars, culverts and ditching. Some of our work has been featured in materials published by the EPA:

<https://www.epa.gov/system/files/documents/2022-02/r1-cwa-319-tribal-celebrations.pdf>.

Thank you for the opportunity to testify before the Committee.