Main Office: 360.466.3163
Facsimile: 360.466.5309

Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476
* 11404 Moorage Way * La Conner, Washington 98257 *

Prepared Statement of the Honorable Brian Cladoosby
Chairman, Swinomish Indian Senate
Swinomish Indian Tribal Community

U.S. House of Representatives, Committee on Appropriations
Subcommittee on Interior, Environment and Related Agencies

May 9, 2018

Good morning Chairman Calvert, Ranking Member McCollum, and members of the Subcommittee. On behalf of the Swinomish Indian Tribal Community (Community), I am pleased to provide this testimony for the Subcommittee as it drafts its Fiscal Year 2019 spending bill.

The Swinomish Reservation is located on Puget Sound, on the southeastern side of Fidalgo Island in Skagit County, Washington, and was established in 1855 by the Treaty of Point Elliot. The Community has nearly 900 tribal members and the Swinomish reservation is 15 square miles in area, which includes tidelands. As a signatory to the 1855 Treaty, the Community possesses treaty fishing rights and fishing has been and remains a critical part of the Community's economy.

My testimony will focus on funding for Indian Health Service (IHS) opioid programs, tribal natural resources funding, and an emerging issue with the Department of Health and Human Services (HHS) that implicates the political status of tribal governments.

1. Funding for the Opioid Crisis

As the Subcommittee is likely aware, the national opioid epidemic represents one of the great public health challenges of the modern era and nowhere is this more evident than in Indian country. According to IHS statistics, among American Indians and Alaska Natives (AI/ANs), the rate of drug overdose deaths is twice that of the general population. As noted in the President's Budget Request for the IHS, "American Indians and Alaska Natives had the highest drug overdose death rates in 2015, and the largest percentage change increase in drug overdose deaths from 1999-2015 of any population at 519 percent."

In November 2017, the Community became one of the first—if not, the first—Indian tribes in the United States to open its own opioid treatment facility. The Community constructed the facility without using any IHS funds. The Community is continuing to do its part to address the opioid epidemic both on-reservation and in the surrounding local community.

The Administration has proposed $150 million in new funding for Tribal Opioid Support Grants, which is a fraction of the $10 billion in new funding that the Administration requested for the HHS to combat the opioid epidemic.

The Tribal Opioid Support Grants are apparently intended to be competitive grants that tribes must apply for. According to the President's Budget Request, the grants are intended to support a comprehensive response to the opioid epidemic with a specific focus to integrate primary care and substance use prevention and treatment activities and establish or enhance community-based support services.

The Community supports new money to fight the opioid epidemic in Indian country, although we believe the amount should be increased to $200 million to reflect the magnitude of the problem in Indian country. We are also concerned that distributing the funds through a competitive grant process will leave many tribal communities out. As stated earlier this year by the National Indian Health Board, competitive grants are not a long term solution and they divert scarce staff resources from their regular program duties.

The Community respectively requests that the Subcommittee fund the Tribal Opioid Support Grants at the $200 million level and direct the IHS to consult with tribes and tribal organizations on how the funding should be distributed through tribal base budgets rather than through competitive grants.

2. Reject Cuts to Tribal Natural Resources Programs

For the second year in a row, the President's Budget Request has sought deep cuts to tribal natural resources programs, including those programs that fund management of Indian trust and treaty resources.

The FY 2019 Budget Request proposes a $46.8 million cut to the Trust-Natural Resources Management Account. That includes a proposed $14.76 million decrease for Rights Protection Implementation, which provides base funding for the Community and other Washington State treaty tribes that are parties to *U.S. v. Washington* for habitat management and regulation. The cuts also zero out the $9.8 million that the Subcommittee provided for Tribal Climate Resilience in the FY 2018 Omnibus, among others.

Tribal trust and treaty resources are among the most critical cultural and economic resources for any Indian tribe, and the Community is no exception. We appreciate the Subcommittee and the full Committee rejecting the proposed cuts to these programs in FY 2018 and ask that you do the same in this appropriations cycle.

3. Policy Solution to Recent Issues on the Political Status of Indian Tribes

Finally, the Community asks the Subcommittee to engage with the Labor-HHS Subcommittee and the Administration to resolve an emerging but very troubling issue developing with the HHS.

In various correspondence with Indian tribes in January 2018, the HHS has signaled that it is stepping back from long-standing precedent and may no longer consider Indian tribes as governments for certain purposes. In response to tribes' concerns about exempting Indian tribes from Medicaid work and community engagement requirements, the HHS has indicated that it is unable to do so because of "civil rights issues"—specifically, the HHS's Office of Civil Rights' apparent interpretation that such an exemption would be "race based."

The Supreme Court has repeatedly upheld the unique political status and the government-to-government relationship between tribes and the United States. This includes the seminal 1974 decision in *Morton v. Mancari*, which affirmed that federal classifications fulfilling federal obligations to Indians are not based on race but instead on a political relationship between the tribes and the federal government. The fact that this Subcommittee has funded programs for decades that directly benefit Indian tribes demonstrates how enshrined this concept is in federal law and policy.

The Community is extremely concerned that any attempt by any federal agency to reevaluate the political status of Indian tribal governments will result in a slippery slope that could affect any number of tribal activities, including how the HHS allocates IHS funding that this Subcommittee appropriates. As the parent Department to the IHS, the HHS should be more respectful of these issues and their potential impact on other tribal programs.

For these reasons, we ask members of this Subcommittee to engage with the Labor-HHS Subcommittee and the HHS to ensure that the HHS does not memorialize any change to the political status of Indian tribal governments. The Community hopes that this issue can be addressed before Indian country and tribal health programs face further confusion.