

**Testimony of Charlene Nelson
Chairwoman, Shoalwater Bay Tribe
2373 Tokeland Road
Tokeland, Washington 98590
360-267-6776**

for the House Appropriations Subcommittees on Interior, Environment and Related Agencies
FY 2019 Appropriations
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The requests of the Shoalwater Bay Indian Tribe (Tribe) for the FY 2019 Interior, Environment, and Related Agencies budget are as follows:

- Appropriate \$500,000 through the Tribe's self-government agreement with the BIA to address additional planning efforts in the second phase of a necessary tribal relocation.
- Contract Support Costs (CSC) Funding
- 105(l) Clinic Leases
- IHS Advance Appropriations
- No Rescissions
- Special Diabetes Prevention Initiative

Background Good afternoon Chairman Calvert, Ranking Member McCollum and Members of the Sub-Committee. Thank you for inviting the Shoalwater Bay Indian Tribe to provide testimony at this hearing on FY 2019 funding for programs affecting Indian tribes which are funded through your Subcommittee. My name is Charlene Nelson, and I am the Chairwoman of the Shoalwater Bay Indian Tribe which is located 2,800 miles west by northwest of where we are meeting today on the beautiful north shore of Willapa Bay, facing out to the Pacific Ocean.

My own personal history matches closely with many of you serving on this Subcommittee, as I understand you consistently are tasked with determining how to fund and shape federal programs that positively impact the health, environment, and learning of American people. I worked for decades in the field of education. As a former commercial fisherman in Alaska, I came to understand the economic potential of a healthy environment. Prior to my service on Tribal Council, I worked in the Tribe's Health and Women's Wellness Program, learning firsthand that vibrant and successful Indian communities are not possible without first attending to human health.

Relocation Assistance I am here today to talk to you about survival. In this case, the survival of our Tribe, its lands, homes, businesses, and its people.

This is my second term as Chairwoman of the Shoalwater Bay Tribe. During my prior period chairing the Tribe, I spent the vast majority of those ten years spearheading an effort to help the Tribe and surrounding area survive the threat of coastal erosion. As a result of those efforts, the Army Corps of Engineers worked with the Tribe to construct an erosion control embankment south and west of the Reservation. The embankment went into service five years ago and this winter it took a beating and is now a new concern of the Tribe and the Corps. The embankment had temporarily halted the erosion that directly threatened the Reservation and State Highway

105, which connects the surrounding Tokeland community to schools, grocery stores, health care, banks, and housing. But that erosion has regained momentum and there is no clear sense of how long Highway 105 will survive.

But through the process of fighting for the Tribe's survival from coastal erosion, we learned a great deal. We learned, among many other things, that essentially the entire Reservation, with one small exception on Eagle Hill, is no higher than 6 feet above the ordinary high water mark of the Willapa Bay tides. The low elevation of the entire reservation puts it squarely within a tsunami zone that ensures, in the case of a tsunami event, that the Reservation would be wiped out. Think about that for a moment—an entire Tribe wiped out in an instant.

Attached to this testimony is a map entitled Exhibit A that lays out the Tribe's intentions: to continue the preliminary engineering, planning and initial funding to construct a road to an upland elevation, out of the tsunami zone, to begin the relocation process of the Tribe. The cost to carry out this next phase of work is \$500,000, and the Tribe is seeking this Subcommittee's support in developing a funding vehicle to support these efforts through the Tribe's existing BIA self-governance compact.

Exhibit A shows a part of the Reservation at the bottom left intersection, as well as Highway 105 in yellow. The new road, to the north east of the main reservation, will provide access to a higher elevation land base that the Tribe owns that is safe from the threats of coastal erosion and tsunami.

This relocation project will require a number of partners, the tribe, state, Interior Corps of Engineers. While our request today is for planning and implementation money for the Tribe from the BIA, other temporary efforts are under serious consideration. For instance, realizing how dire the situation is, the state and Corps of Engineers have under serious and immediate consideration a joint project for a dynamic revetment to help protect the berm which is endangered because the wave action is now split where it hits the shore and part goes north and part comes toward the berm. *We appreciate these efforts but the Tribe also needs the resources to be actively involved in what ultimately is our own relocation.*

Contract Supports Costs. We greatly appreciate the House and Senate Interior appropriations Subcommittees work over the past several years in making a reality the full payment of Contract Support Costs (CSC) by both the IHS and the BIA. We are also very pleased that the Administration – both the current and the previous one – has followed suit and requested that CSC be maintained as a separate appropriations account in IHS and in BIA and with an indefinite funding of ‘such sums as may be necessary’. This action has been crucial to the strengthening of tribal governments' ability to successfully exercise their rights and responsibilities as governments.

In both FY 2017 and 2018 Act, however, the Administrations proposed to reinstate provisions from the FY 2016 Appropriations Act for IHS which are contrary to the Indian Self-Determination and Education Assistance Act with regard to CSC. The first is the “carryover” clause that could be read to deny the CSC carryover authority granted by the ISDEAA; the other is the notwithstanding” clause used by IHS to deny contract support cost for their grant programs

– Domestic Violence Prevention; Substance Abuse and Suicide Prevention; Zero Suicide Initiative; after-care pilot projects at Youth Regional Treatment Centers; funding for the improvement of third party collections; and accreditation emergencies. We are grateful that Congress has not gone along with those two proposals and are hoping and expecting that you will have the same reaction for the same tired Administration requests for FY 2019.

105(l) Clinic Leases. We are concerned by the Administration's proposed request to amend the law in order to avoid full compensation for leases under section 105(l) of the ISDEAA. The proposed bill language in the IHS Administrative provisions is designed to overrule the decision in *Maniilaq Association v. Burwell*, 170 F. sup. 3d 243 (D.D.C. 2016) which held that section 105(l) of the ISDEAA provides an entitlement to full compensation for leases of tribal facilities used to carry out ISDEAA agreements. The proposed language would exclude section 105(l) of the ISDEAA as a source of entitlement to funding for section 105(l) leases, leaving it entirely within the discretion of the IHS. Tribes and tribal organizations increasingly rely on section 105(l) leases to address chronically underfunded facilities operation, maintenance, and replacement costs. Congress declined to include such a provision in the FY 2018 IHS appropriation bill and we ask that you treat this year's repeat proposal the same way.

IHS Advance Appropriations. We ask for your support in placing the budget for the IHS on an advance appropriations basis. Under advance appropriations we would know a year in advance what the budget would be and importantly, would not be constrained by the start and stop level funding of Continuing Resolutions, each of which requires the same processing and manpower for each partial payment as one full apportionment. Even if CRs had not become the norm, having advance notice of funding levels would aid greatly in our health programs planning, recruitment, retention, and leveraging of funds. Finally, we note again that the Veterans Health Administration accounts have been receiving advance appropriations since FY 2010. Both the VA and the IHS provide direct medical care and both are the result of federal policies. The IHS budget should be afforded the same budget status.

No Rescissions. We have heard the talk of possible FY 2018 rescissions and must object to that. After this year's enactment of the Bipartisan Budget Act and the Consolidated Appropriations Act, 2018, it would be outrageous to break these Congressional budget agreements and to interrupt the planning that is taking place among tribes and tribal organizations (and others) with regard to facilities, staffing, and services. We are grateful for the increases in the IHS and BIA FY 2018 budgets made possible by those Acts, increases that should be maintained.

Special Diabetes Program for Indians (SDPI). The Administration proposed, with no real explanation of why, that a number of health programs' funding be changed from a mandatory to a discretionary status. Among them is the SDPI program, and we are concerned that it could lead to a reduction in funding for this critical program which has demonstrated good results in Indian Country. The Administration's proposal is for level funding of \$150 million for SDPI in *discretionary* funding in the Indian Health Service budget. We understand it these funds would, if the Administration's proposal is approved, come out of the Interior Appropriations Subcommittees' allocations. The current SDPI authorization extends through FY 2019 and we hope that the authorization can be made permanent and at an increased funding level of \$200 million or higher.



EXHIBIT A – Phase 1 Upland Development Project

Tribal Lake Road (Main
Entrance) and Tribal
Administration Site

