

**Statement of Douglas Cox
Menominee Nation Chairman**

**Before the
U.S. House of Representatives Committee on Appropriations, Subcommittee on Interior,
Environment, and Related Agencies
May 10, 2018**

Thank you, Mr. Chairman, Ranking Member, and Members of the Committee for the invitation to be here today to discuss our Menominee Indian Tribe of Wisconsin's request for the federal government fulfill its commitment to assist in providing the funding necessary to establish a lake sturgeon population in the upper reaches of Wisconsin's Wolf River. Currently the Balsam Row hydroelectric project, outside our Menominee Tribal lands in Shawano, Wisconsin is one of two remaining man-made barriers to sturgeon moving from the Lake Winnebago system upstream to our tribal lands.

The arrival of dams and river controls around 1890 ended 10,000 years of sturgeon migration to the upper Wolf River, and spawning access to the upper river's rocky shoals was denied to those fish blocked by dams. Re-establishing a lake sturgeon population in the upper reaches of Wisconsin's Wolf River is a long-standing objective of state and federal resource agencies, as well as the Menominee Indian Tribe of Wisconsin. Lake sturgeon historically have been central to the Menominee and their way of life, and the Wolf River provided excellent spawning grounds for this prehistoric fish.

The 700-kW Shawano Project is licensed as Federal Energy Regulatory Commission (FERC) P-710, but the dam is referred to as Balsam Row Dam by the regulatory agencies and dam owner. The settlement agreement for relicensing this project with the FERC - into which the Menominee Indian Tribe entered in consultation with the Bureau of Indian Affairs (BIA) and the U.S. Fish and Wildlife Service (FWS) - stipulated the inclusion of upstream fish passage. The Wisconsin Department of Natural Resources (DNR) was involved in discussions about fish passage at this site but was not a signatory to the settlement agreement.

When the 1997 FERC license and 2006 settlement agreement were signed, the hydropower licensee agreed to provide fish passage. As part of the agreement, DNR and FWS concurred that fish passage was in the interest of the state and federal environmental goals, so the FERC license was made contingent upon such fish passage being constructed by 2020.

In terms of commitments made by the federal government to our Tribe and based on FERC Settlement Agreement Terms, our Menominee Tribe come before you today to restore sturgeon fish above the Balsam Row dam so sturgeon can have a presence and spawn at their traditional sites on our Menominee Indian reservation below Keshena Falls, and I will discuss with you:

- 20 Year Relicensing Process That Took the Tribe through Legal and Administrative Burdens
- The hydroelectric facility is downstream from the Tribe's Reservation and creates numerous problems, including, but not limited to: preventing fish, in particular, lake sturgeon, from returning to Keshena Falls; contributing to the frazil ice and flooding within the Village of Keshena; and causing adverse effects to the historic properties and archaeological sites within the Reservation.
- Settlement agreement puts fiscal responsibility on our Tribe
- Our Tribe would not have entered into settlement agreement if not for our understanding that the federal government would assist in providing funding to meet the Tribe's obligations in that agreement.
- Reissued license (2006) extended to 2037 – will require the Tribe to keep monitoring and tracking compliance with settlement terms and various License Articles throughout the license term.
- We enacted a Tribal Resolution 10-41 detailing our tribal position on sturgeon restoration plan
- Reintroduction Plan is Not Meeting Goal
- The Licensee's cost for installing frazil ice booms will not exceed \$25,000.00. The Tribe is responsible for the remaining construction costs, estimated to be \$500,000.00, and annual maintenance, estimated to be \$10,000.00.
- Tribe Secured Grant Funding to Complete the Fishway Design – Licensee only contributed a small portion, \$65,000.00, that paid for part of the design. The Tribe's share to complete construction and installation of the fishway will be approximately \$1.25 million. The Tribe is also responsible for annual maintenance which is estimated to be \$50,000.00.
- Wisconsin Department of Natural Resources unsupportive of the Tribe efforts to reconnect ecosystems. Undue burdens to develop a "**Comprehensive Water Resources Management Plan**", when all the license article mentions is a "Fisheries Plan".
- The Licensee's cost for installing downstream fish passage will not exceed \$55,000. The Tribe is responsible for the remaining construction costs, estimated to be \$250,000.00, and annual maintenance, estimated to be \$25,000.00.
- This is not a comprehensive list of all of the Tribe's obligations under the settlement agreement but rather highlights a few of the more costly obligations.

The Tribe is requesting that the Subcommittee on the Interior, Environment and Related Agencies support the Tribe's request that the federal government fulfill its commitment to assist in providing the funding necessary to implement the settlement terms that are estimated to be approximately \$5 million.